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Pro per

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE, Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

Administrative Law Judge Preny.

In the matter of:

USA BARCELONA REALTY ADVISORS, LLC, an Arizona limited liability company,

USA BARCELONA HOTEL LAND COMPANY I, LLC, an Arizona limited liability company,

RICHARD C. HARKINS, an unmarried man,

ROBERT J. KERRIGAN (CRD no. 268516) an unmarried man,

GEORGE T. SIMMONS and JANET B. MR. SIMMONS, husband and wife,

BRUCE L. ORR and SUSAN S. ORR, husband and wife.

DOCKET NO. S-20938A-15-0308

POST-HEARING BRIEF OF RESPONDENT RICHARD C. HARKINS

Arizona Corporation Commission
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AUG 19 2016

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Mr. Harkins submits this post-hearing brief as relates to the administrative hearing, which was conducted over the period May 9, 2016 through May 19, 2016, on behalf of the above named Respondents, as follows:

BRIEFING ISSUES

Regarding the Securities Division's unauthorized "Amended Post-Hearing Brief"

If the Division's Amended Post-Hearing Brief ("Amended PHB") was not approved by the Administrative Law Judge Mark Preny ("ALJ Preny") and/or the Amended PHB contains any charges against any Mr. Harkins not there-to-fore of record, it should be Stricken.

SUMMARY OF THE CASE AGAINST MR. HARKINS

The Division's Amended PHB is in some instances clear as to charges directed solely against Mr. Harkins or against Respondents Mr. Kerrigan, Mr. Simmons and Mr. Orr; and in other cases, (ii) the Division's charges are unclear as to whether they are applicable Mr. Harkins (i) at all, (ii) in part, or, (iii) not at all.

In this regard, Mr. Harkins has made a best efforts attempt to state his position on any charge he assesses is directed against him.

Charges that Mr. Harkins deems applicable only to Respondents Mr. Kerrigan, Mr. Simmons and Mr. Orr, are referenced as "Not Applicable to Mr. Harkins".

Harkins' Preamble to his Post Hearing Brief

> "Thou shalt not bear false witness against thy neighbour" is the ninth (respectively the eighth according to the Catholic and Lutheran count[1]) of the Ten Commandments,[2] which are widely understood as moral imperatives by legal scholars, Jewish scholars, Catholic scholars, and Post-Reformation scholars." Continuing, "You shall not spread a false report. You shall not join hands with a wicked man to be a malicious witness. You shall not fall in with the many to do evil, nor shall you bear witness in a lawsuit, siding with the many, so as to pervert justice, nor shall you be partial to a poor man in his lawsuit."
>
> — Exodus 23:1-2[8]

The Securities Division ("Division"[dt]) of the Arizona Corporation Commission has flaunted these most sacred concepts and done so in arrogant abuse of its prosecutorial duties. It well understands where its false witness failures lie. If the ALJ Hearing had been a trial in a Unites States Court of Law, in observation of the Division's admitted practices, it is likely the Judge would have declared it a mistrial. But, ALJ Preny stated in the ALJ Hearing, that he felt he did not have the authority to dismiss any charge. Therein, he certainly could not declare the ALJ Hearing aborted.

Three addendums to this Post Hearing Brief of Harkins are incorporated herein and located at the end of the Post Hearing Brief's signature and distribution page, as follows:

- Addendum I - Defined terms are denoted throughout by [dt] when established to be used thereafter for the purposes of establishing a Defined Term as used herein.
- Addendum II - Chronological review of major events of USA Barcelona Realty Advisors, LLC ("Company", "Advisors" and "Barcelona Advisors"), USA Barcelona Hotel Land Company, LLC ("Barcelona Land Company") and USA Barcelona Realty, Inc. ("Realty" and "Barcelona Realty").

  Note: Addendum II is an 11x17 document, if printed in full scale.

- Addendum III - Chart including the charges brought by the Division against Harkins with reference to paragraph numbers in both the Division's and Harkins' Post Hearing Briefs.

The Division's case against Harkins is fatedly flawed. When the issues are laid out and judged under tests of, reasonableness, relevance and reality, in the names of justice and prudence, The Hearing Division's recommendation to the Commission should be to "Dismiss with Prejudice". The reasons are clear, as will be laid out in Harkins' Preamble and further in his Post Hearing Brief.

For ease of tracking the historical evolution and of inter-relationships between the Barcelona entities (the "Barcelona Entities") , including two that are subjects of the Division's initiative, (Barcelona Advisors and Barcelona Hotel Company) and one that isn't (Barcelona Realty), which most certainly is a key player either overlooked or disregarded by the Division, Harkins has included Addendum II hereto.

The Division has undertaken to find bad actors ("Bad Actors") in a house devoid of Bad Actors. By now, the Division knows that all of its accusations, allegations and charges, except one, are without foundations suitable to achieve the WIN they are after.

As brought forward by the Division, the matter at hand pertains to the Company's dealings with 10 investors, all clearly accredited investors, nine of whom had a substantial relationship with one or more of the Respondents prior to making an investment with the Company. Total monies involved include securities transactions of $890,000 or $895,000 and other non-securities transactions of $400,000 or $405,000, for $1,395,000 in total capital transactions.

Fatal flaw # 1 - The Barcelona entity the Division has overlooked, Barcelona Realty, is the reason all the other Barcelona entities exist. Right from the beginning of the Division's pursuit of Bad Actors, with Mr. McDonough's road map in hand, the Division went down a path to nowhere.

Consider - Barcelona Realty has not been brought forward by the Division in its investigation. It remains essentially invisible. Harkins' belief as to why this is so, is provided in this Preamble and in his Post Hearing Brief. As a peek preview, Harkins' believes, that the Division's reason for leaving Barcelona Realty out of their story is either (i) it is somehow a key part of the Division's WIN at all cost approach to this matter, or in the alternative, (ii) they didn't/don't possess the business acumen to figure it out. Harkins leans toward the latter.

When the Hearing Division correlates (i) the essence of Barcelona Realty as the linchpin of the Barcelona group of companies, with, (ii) the preposterous charges brought against Harkins, Barcelona Advisors and Barcelona Land Company (in this instance, the three need to be viewed together) by the Division, the Hearing Division will reduce the Division's claims against Harkins from the mountains the Division claims them to be, to the mole hills they are.

Fatal flaw # 2 – Using a flawed road map. The complaint that started this matter did not come from a Company Investor, creditor or vendor. Rather, it came from Patrick McDonough, a disgruntled former non-managing member of the Company who failed in his duties with the Company, knew it, and quit the Company in some after-hours quackery.

- Harkins understands one issue McDonough had with the Company. At the time of his quackerous departure from the Company, he had not, along with

every other "member", been paid for over two months. The Company was in a tight cash situation which was deemed a short-term issue.

- Here is where cause and effect comes into play. Interestingly, Mr. McDonough had not raised one penny of capital for the Company under the very offering when, at the time he was hired, he assured the Company he could, and would, place with personal accredited investor acquaintances. His own lack of effort and performance of the duties he was hired to execute led to his own displeasure with the Company.
- Within a day of his departure from the Company, McDonough, in an off-campus meeting with Mr. Simmons, threatened to cause the Company problems. His tone and vileness were such that, Mr. Simmons left the meeting. Congratulations are in order for Mr. McDonough. He found his facilitator in the Division.
- Most recently at the ALJ Hearing, Mr. McDonough lied under oath regarding a continued harassment of Harkins. This was evidenced by a document (an ill-conceived lien on personal property) introduced into evidence by Harkins to which McDonough testified he did not send to Harkins. It was received by Mr. Harkins in a Company logoed envelope. Mr. McDonough falsely testified that he neither possesses, nor since leaving the Company, has possessed any Company materials.
- McDonough has no credibility or knowledge worthy of the Division's purposes. The McDonough horse is out of the barn and its gilded (sic "to

give a deceptively attractive or improved appearance") spots are in plain sight for all to see.

Fatal flaw # 3 – Attempting to make mountains out of mole hills – When the Division's charges against Harkins are unbundled, set up in plain sight to be assessed, and measured against the "Three r Test", reasonableness, relevance and reality, a puff of breeze would cause severe damage. Exit stage right > Dust clears > Only mole hills standing.

- Most of the Divisions charges are downright trite. (wall drippers)
- Others require some keen knowledge of what was going on at the time to determine their reasonableness, relevance or reality.
- And a few take real business knowledge to grasp the underlying essence.

That ground will be covered in the upcoming pages.

That's the geneses of this matter of Division versus Harkins, all rolled up in three fatal flaws. The Division seems mired in a stage of dystopia. It's views of companies and people can only see badness and improper intention. Goliath in a modern day form. Not only does the Division, playing the role of Goliath, have a very bad foundation for their commencement of action against Harkins (the McDonough road map), the Division brought the preponderance of its charges against the wrong Barcelona entity, which itself (if an entity can be a 'self'), did absolutely nothing for which to be prosecuted.

If the readers of this treatise of self-defense still stand at its conclusion, (some 108 pages from here), the matter at hand will correlate to the fact that, there is very little relevance to the Division's version of mountains. What will stand at the treatise's conclusion will be mere smoldering mole hills.

This laborious waste of time and resources by the Division in it malicious prosecution of Mr. Harkins, results from the Division not understanding what it was doing in the beginning. It literally has been chasing its tail ever since.

We've witnessed the classic rendition of, "how to find some mole hills", authored by the scribes at the Division. An impressive work. It incorporates 653 numbered citations and some 4,000 (that's a guess) individual references. Here's a review of the Division's body of work.

- POB. Read a/some "you should know about this" message(s) from McDonough.
- Interviewed the author (a contentious person with a bag of hate and discontent disguised as, a road map).
- Go through piles of documents provided to the Division by Harkins and others. (Of all the documents submitted into evidence by the Division, the vast majority were provided by Harkins and the other Respondents. Point – the Division produced next to nothing on its own.)
- Have investigators (may have been more than one, but Morin was the main guy) conduct a plethora of interviews of Company investors, and others (you will see that Mr. Morin was unsupervised and made up his own material as used on the unsuspecting interviewees).
- Follow this with the Division's attorneys conducting interviews of the Executive Members of the Company, and others,
- Have a Division forensic accountant dig through financial statements, records and reports,

- In preparation for the ALJ Hearing, have Division attorney's conduct coaching sessions with its witnesses .. and the climax scene -
- Hold the ALJ Hearing.

That's how the Division came up with the Barcelona mole hills. If it wasn't actually happening, it would be an entertaining story. Road map in hand, all of the above resulted from the Division focusing on the Barcelona Advisors entity as "organized to operate as a REIT", which is where the Division started in its understanding of what it was looking at to find vile deeds perpetrated by Bad Actors.

Later (give'm some credit), the Division came to comprehend that Barcelona Advisors was not organized to conduct business as a REIT, nothing of the sort. The Division grasped enough testimony from its individual interviews of the Respondents (likely Mr. Harkins) to reverse course and understand that Barcelona Advisors was organized to be the advisor to "something" or some "somethings". Even then, the Division didn't get what the "something" was.

In fact, what the Division didn't get is that it was dealing with something far more complex than a single entity. At about this juncture, it likely hid the McDonough road map with all the evidence in had gathered that didn't support its case. (Like to find that closet).

The entity it was going after was fungible. It lies both inside of and outside of a group of affiliated companies that comprise the Barcelona Entities. They are, in fact, a consortium of companies that each had its own business plan. Some were aimed at buying land and entitling land to be sold to affiliates and non-affiliates, others were focused on acquiring properties, building properties, engaging in joint ventures to buy and/or build properties and engaging in other matters. Barcelona Realty wrapped all of this up under its

umbrella that incorporated a very broad and far reaching five step business plan. None of this was a component of Barcelona Advisors business plan; rather, these were the business plans of Barcelona Realty and its upstream and downstream affiliates.

Right here, it is in plain view that, the Division has been barking up the wrong tree. It cornered Barcelona Advisors. But, in its quest to find evil deeds perpetrated by Bad Actors, it quarantined for examination, trial and the gallows, the wrong rabbit.

The Division did not understand that Barcelona Realty, controlling entities above it and subservient entities beneath, was where the real estate business would occur, not, with Barcelona Advisors. Hence, a number of the Division's charges against the Company simply become moot when the veil of organization is peeled away and it is clearly seen just what the Company's business was about. That being, the Company was an advisor to entities that engaged in the business of real estate. The advisor did not do anything other than advise nor is it organized to do so. Here sits the Division with just a bunch of mole hills.

What the Division did not take the time to grasp, most investors, if not all investors, in Barcelona Advisors' 12-6-12 Offering, most likely knew. What did these investors know? Well, if they read it, all about Barcelona Realty, 110+ pages worth.

The effective version (same date) of the preliminary Barcelona Realty April 10, 2013 confidential private offering memorandum (Exhibit GTS-2^{dt}, submitted into evidence at the ALJ Hearing) was provided to the 12-6-12 investors, not as an offering for investment purposes, but for background information on the key company among the Barcelona Entities that Barcelona Advisors was advising, Barcelona Realty. Woah Nellie!

From the front page Exhibit GTS-2, reads:

"This Offering ("Offering") is being made to provide USA Barcelona Realty, Inc., an Arizona corporation (the "Company", "us", "we") with capital to fund the purchase of and investment in hotels, apartment communities ..etc.. USA Barcelona Realty Advisors, LLC, an Arizona limited liability company (the "Advisor"), will provide all administrative services to the Company and its affiliates."

With the knowledge so far gleaned from the Preamble, what charges should be deep-sixed from the Division's list? An excellent question. For starters, toss the one about the "Company changed its business plan". That one doesn't fly. The Company always acted as the advisor it is. If the Division had paid attention to (or even taken the time to learn about) the business plan of the entity that would be doing the real estate business, Barcelona Realty, it would have seen that therein, the business plan covers a broad array of channels of real estate business, in a fashion that, per the plan, leads it (and other Barcelona entities when rolled up) to becoming a public company.

The Division's quest to find Bad Actors perpetrating evil and vile deeds began with the Division reacting to Patrick McDonough's communication (possibly the Division met with Mr. McDonough early on, we couldn't get clarity on that) thinking it had something worth chasing, got into something it didn't understand and in disregarding its prosecutorial duties to not harm the innocent while chasing Bad Actors, continued, to this day, in an effort to get out of their investigation with a "WIN".

It's no wonder they got rid of the investigator and the forensic accountant assigned to the Barcelona Matter. What a job those two did. (Not) But, they did find some mole hills.

Where is the Division focused now? The Division wants a WIN on the 8-8 Offering matter. Look at some facts:

- the Company made no offers of the 8-8 Offering.
- the Company conducted no sales under the 8-8 Offering.
- no person with whom the Company communicated regarding the 8-8 Offering had any prior or future investment or any other dealing with the Company; finally,
- as the Division stated, the subject ads carried the appropriate legend for an exempt offering under Arizona Securities Statute Rule R14-4-140.

Here's another mystery. Curiously, the Division did not question the Company at any time during the approximately two-month period it ran the 8-8 Offering ads, or for a period of some 12 months thereafter. Only when the Division was well under way with its action against the Company did the 8-8 Offering become a matter of interest. Clearly, in 2013 when the Company ran the 8-8 adds, the Division was aware and not in the least concerned. The Division has persons who review the Arizona Republic daily in search for violators of the rules it is empowered to enforce. And, when they think there is an inappropriate activity, they contact the sponsors of the ad and seek to find out what they are up to. So, the 8-8 ads were fine with the Division until they needed it to throw against the wall. (sic "Throw against the wall" .. to present an idea and test the reaction; or, throw everything against the wall and hope something will stick)

Here's a little interlude that has some irony to it:

Did you know, that once upon a time, Harkins was involved with a company that was the Division's standard-bearer of how to provide full disclosure and conduct itself as a starlet example for all issuers operating in Arizona to follow. Yep, good ole AVC.

Investment banker Robert Lawson used AVC in his dealing with the Division's then, and now, Director, Matthew J. Neubert, to demonstrate what a proper disclosure document was and to go forward and straighten out some companies that were operating in abuse of the Arizona securities statutes. Yep, good ole AVC conducted that standard-bearing intrastate registered offering under A.R.S. 44-1891. Isn't that something? Same ole AVC the Division's taking shots at now. Same ole Richard C. Harkins. Same ole Matt Neubert. Same ole Division.

Back on point - Mr. Harkins had also employed Rule 14-4-140 in the early days of starting up AVC (circ 2004). He had no issues with the Division and vice versa. As Mr. Harkins testified, over a period of 10 years as a licensed securities salesman and principal, he held Series 7, 24 and 63 securities licenses, was an officer of one broker dealer and a co-owner of another. He has participated as an officer or principal of issuers that conducted over 550 exempt offerings sold in 49 states, including Arizona, and the previously mentioned intra-state registered offering in Arizona. He has never been cited by any regulatory agency whether State or Federal for any violation nor the subject of any investor lawsuit.

There was one isolated instance. The Division's Ms. Coy called Harkins in for an interview back in 2010, in the early days of the Barcelona undertaking. But she released him with what appeared to be a "no harm, no foul" call. To this day neither Mr. Harkins or

his attorney knows what the matter was about. Harkins recalls he had a very pleasant conversation with Ms. Coy. So why this? Why now?

As will be seen herein (see pars. 93..98), the Division attempts to make the case that the 8-8 Offering does not qualify for exemption from registration and therefore, by default, pulls apart every other thing the Company did.

Should the Division win that point in concert with the 12-6-12, 10-5-10 and 8-8 offerings being integrated (which Mr. Harkins stated in his testimony was an event for which the Company planned), then the Company's 12-6-12 and 10-5-10 Offerings would likely be deemed retroactively unqualified for exemption.

Much of the Division's case pertaining to exemption from registration rests on the 8-8 Offering matter. The matter is not a fraud matter, it is an exemption matter.

A Hearing Division consideration regarding the 8-8 Offering will likely determine if (i) there was an offering at all, and if so, (ii) was it a public solicitation, or, did it qualify for exemption from registration. A recommendation from the Hearing Division that the 8-8 Offering was not exempt from registration would be incorrect. It carried the appropriate legend and no offers or sale were made. In a sense, it was a tree that fell in the forest .. etc.

Had there been interest in the 8-8 Offering, which was scant at best, and had the Company determined it would present a PPM to an interested person, which it didn't, the Company would have created an appropriate offering document and followed the proper protocol with Division, which is evidenced to be his consistent prior practice. (see AVC, page 14).

It is plain to see, the Company relies on Section 4(a)(2) of the Securities Act (formerly Section 4(2) but redesignated Section 4(a)(2) by the JOBS Act) which provides an exemption from the provisions of Section 5 of the Securities Act for "transactions by an

issuer not involving any public offering." The Company has not made a/any public offering.

Here, we're not dealing with life and death, per se. But, we are dealing with potentially inflicting monstrous damage to the financial lives and the very essence of the reputation of Harkins (and the other Respondents).

Given the Division's WIN at all cost behavior, to achieve their quest for a WIN, the rules that govern aren't on their side. The Division is held to the high standard of proving each of its charges based on the preponderance of evidence presented at the ALJ Hearing. That is a very tall order.

In that regard, at the ALJ Hearing, the Division gave the Hearing Division nothing beyond mole hill dust to support any charge it has brought against Harkins. The Kerrigan matter of "selling away" does not pollenate to infect Mr. Harkins, and the other charges asserted against him by Goliath to which he has denied, are not supported by the preponderance of evidence presented at the ALJ Hearing.

One more matter has to do with "Controlling Persons". Mr. Harkins has testified that based on the manner in which the Company operated, it is his fervent belief, that he was the sole Control Person. That is not because Mr. Harkins has dictatorial dissolutions, it is simply the way things unfolded over the October 2012 through September 2014 period covered by Goliath's investigation.

When the Hearing Division resolves its recommendations around the evidence, testimony and the parties' post-hearing briefs, the Division should not win on one single charge it has brought against Mr. Harkins. What remains standing are mere mole hills.

Before commencing with his Post Hearing Brief, Mr. Harkins has two additional points to make regarding the Division's actions during (i) the course of its investigation; and, (ii) in preparation for and conduct during the ALJ Hearing.

Actions by Dee Morin, previously an Investigator with the Division

At the ALJ Hearing, the Division's investigator (there is testimony that one additional investigator was involved but has not been identified) on the Barcelona Advisors et al case ("Barcelona Matter"), Mr. Morin, was called as a Division witness. Under cross examination, Mr. Morin testified about the Division's activities, its absence of supervision of his activities and his own independent actions totally unvetted by any person in the Division. This is incredible and should result in categorical disregard by the Hearing Division of all Division witnesses' testimonies. For this reason and later for the Division's attorney's behavior.

Knowing we don't end it here, Mr. Morin's testimony includes the following:

- Mr. Morin attended "Barcelona team meetings" comprised of Division personnel (attorneys, their superiors in the Division, investigator Mr. Morin, forensic accountant, possibly others) involved in the Barcelona Matter.
- He testified that he listened, and from his impressions gathered at the Barcelona team meetings, formulated the approach he would take in interviewing prospective witnesses for the Division in the Barcelona Matter investigation.
- The Division's Barcelona team had no supervisor, they just came together to meet. The Barcelona Matter meetings were unsupervised.
- The questions and approaches Mr. Morin took with witnesses was not vetted or approved by any person in the Division.

• Mr. Morin acted as he saw fit. Mr. Morin, the Division's investigator in the Barcelona Matter, was not supervised! He conducted his interviews with Barcelona Advisors' investors, and possibly others, such as Steve Chanen, as he alone saw fit.

Accordingly, the Division has no idea how prejudicially biased Mr. Morin, their unsupervised investigator, caused the Division's witnesses to become against the Respondents, even long before the Division's attorneys themselves got a hold of the witnesses in their own influence peddling coaching sessions.

By account of one or more of the persons interviewed by the Division's investigator, interviewees were told that the below eight matters were highly believed by the Division to be of fact. The investigator's interviews conducted with persons who later testified as Division witnesses, was framed around the following (all preceded with "did you know"):

1. Barcelona had a convicted felon working in its office.

2. (What was referred to as) Mr. Harkins' company (AVC), had filed bankruptcy (some interviewee's stated that they were told Mr. Harkins himself had filed bankruptcy).

3. Barcelona did not pay interest or principal due on loans made to the Company by one or more of its Executive Members.

5. Barcelona did not pay interest to one or more of its outside noteholders.

6. Barcelona intended to repay insider loans with investor funds.

7. Barcelona intended to use new investor funds to pay interest on prior notes that were part of investment units sold in the same offering.

8. Barcelona changed its business plan.

Further, according to Mr. Morin, during these interviews, interviewees were asked if they would testify at the trial of the Barcelona principals (that one got some folks

attention) and told they should file civil lawsuits against the principals of Barcelona Advisors. Is this standard fare for the Division's preliminary interview procedure with an issuer's investors? If so, there's no need for a hearing or trial.

- Legalize lynch mobs
- Turn the Division's investigators loose.
- The investors will that it from there.

Indeed! Mr. Harkins knows first-hand the practices of Mr. Morin. Mr. Harkins heard the telephone interview between the Division's investigator and Ms. Burleson (their home offices are adjacent to one another). Given what was said to Ms. Burleson in that interview, Mr. Harkins well understands why any investor that received such an input would want the Respondents' blood. Simply stated, the investigator's litany of statements made to Ms. Burleson, in her mind, if true, convicted Harkins and the other Respondents on the spot, of high treason perpetrated against her and the Company's other investors. Fortunately, she knew better. No lynching.

Of interest, Mr. Morin is no longer employed by the Division, nor is the forensic accountant who was engaged by the Division on the Barcelona Advisors case. Sounds like a repeat of the aftermath of "Whitewater". What happened to them?

Actions by the Division's Attorneys

Stage two of the Division's defamation of the Respondents came at the hands of the Division's attorney(s) - The Division's attorney(s) conducted coaching sessions with the investors/persons whom later testified as Division witnesses at the ALJ Hearing. The persons/investors were told by the Division attorney(s) of the allegations the Division was bringing against the Respondents (to which Mr. Kitchin testified they did), with nothing

mentioned of the fact that, the Division was still struggling to develop some realities it could sell to the Hearing Division.

You can paint a pig green, then go out and try and sell it as a real, green pig. Seldom would that pig painter find a buyer. The Division uses a lot of green paint.

They (the Division's Company investor witnesses) were told that the Division would be asking for full restitution of the investors' invested capital plus some sum of money tantamount to accrued interest. The questions they would be asked, under oath, at the ALJ Hearings, were posed to them in the same form as they would be asked at the hearing (again, as testified by Mr. Kitchin to be correct). These questions have come to known as "The Mr. Kitchin 8". Mr. Kitchin can't take sole claim. Burgess used some of them in his examination of one witness.

At the ALJ Hearing, indeed, the questions previously posed to the witnesses were asked of them by the Division's attorney(s). Five witnesses, who are investors of the Company, took the stand. A sixth investor provided testimony through a telephone interview with Division personnel on both ends of the call. Four investors did not testify. Here's Mr. Harkins' view of the result of the Division's witnesses' testimonies (and scorecard):

Category 1 – One testified that if he knew the "rest of the story" (beyond the form of the "did you know" method of Mr. Kitchin's questioning), he may just be OK with the subject matter. With this fellow, despite what Mr. Morin and the Division attorneys attempted in their coaching session(s), the Division didn't get what they were after, a witness hostile to the Company.

Category 2 - One testified that if he/she knew the "rest of the story" (beyond the form of the "did you know" method of Mr. Kitchin's questioning), he probably wouldn't

be OK with the subject matter, but couldn't be certain. With this one, despite what Mr. Morin and the Division attorneys attempted in their coaching session(s), they didn't clearly get what they were after, a witness hostile to the Company.

Category 3 – One witness's testimony was read into the record. It aligns with the testimony by the witness in Category 1. Not a victory for the Division.

Category 4 – Four investors did not testify. Not a victory for the Division.

Category 5 – Three testified that if he/she knew the "rest of the story" (beyond the form of the "did you know" method of Mr. Kitchin's questioning), it simply wouldn't matter. They would not have invested. Why?". The answer in all cases was: "That would have been a Red Flag". Chalk up three for the Division.

Score: Division 3, unclear 1, Respondents 6.

But, not so fast. As for the three scores for the Division, it is highly likely two of the three witnesses that are marked as a win for the Division, gave false or "forgetful" testimony. The testimony of Mrs. Stewart, Mr. Eaves and Mr. Andrade is each, in its own unique way, suspect.

- Stewart clearly was close to a basket-case during her testimony. It set the high water mark for a "what did she say?" form of testimony.
- Mr. Eaves got lost between the coaching job done by the Division, his true recollections, his inherent honesty and a "to heck with it, this might get my money back" surrender of his character.
- Andrade wandered in and out. Seeming on-point to the historical facts then edging over toward following the Division's lead as to what he could say to set the stage to get his money back. A loss came for the Division as Andrade's most powerful testimonial statement was made, to the effect, 'The Company did not make an offering of

the Barcelona Land Company investment to me. I asked for a copy of the PPM for general informational purposes, after, I gave them my check and received their note.'

By the way - Here is an example (deals with public companies, of which Barcelona Advisors is not, but it fits) of giving an existing investor information he requests. It's referred to as The Collision Principle. *As a general matter, where a company faces an obligation under the Exchange Act to make a public statement, or where good corporate citizenship calls for disclosure of important events to existing public security holders (like the need for short-term capital with which to operate), the required disclosure should not be considered an offer.* This applies to (and extinguishes) numerous charges by the Division that the Company, through normal, proper business communications with its investors, was making Offerings. See par. 85

Mr. Harkins poses the following question: What does this mean? Among the Division's three Category 5 witnesses, with little deviation one witness to the other, when the Kitchin 8 questions were asked, and the follow-on question "had you known, would this have affected your decision to invest", the answer was "yes". When the Division attorney followed with "Why would that be?", the answer came back, "That would have been be a "Red Flag". Now, what are the odds?

Harkins is not an attorney, so he poses this question: "Is it standard fare to coach your witnesses in pretrial sessions?" That's pretty edgy stuff. Not much room for slippage. Over the edge and the attorney induced a witness(s) to commit perjury. Seems risky.

Putting the investigators' (assuming there was more than one) activities and the attorneys' methods under examination, it is Mr. Harkins' opinion that the witnesses were conditioned to believe that the Company had perpetrated vile acts against them, and, that if they followed the Division's lead, they would be able to recover their investment.

***Argumentum ad hominem**, is a logical fallacy in which an argument is rebutted by attacking the character, motive, or other attribute of the person making the argument, or persons associated with the argument, rather than attacking the substance of the argument itself.*

It is under this dictum of *Argumentum ad hominem* the Division operates.

What's wrong with this? Let's examine the Division's actions including the investigators' action, the attorneys' actions and collective body of all other Division actions:

- ✓ Taking the position the Company was out of business.
- ✓ Taking the position that the investors' capital was lost.
- ✓ Telling investors they should sue the Respondents
- ✓ Taking the position the Company had made less than full or no disclosure in its PPM(s), regarding:
  - Mr. Harkins background, AVC
  - Mr. Kerrigan lawsuit with a bank
  - Mr. Kerrigan IRS Tax Lien
  - Company not paying insider loans
  - Company intending to pay insider loans
  - Non-payment/delayed payment of interest to outside investors
  - Paying interest to existing outside investors from new investors' capital
  - Company changed its business plan
  - Company employed a convicted felon

Four things the Division didn't do.

The first thing the Division didn't do - Bring forward witnesses that based on their interview with the Division, would not support the Division's charges against Mr. Harkins (no surprise here).

The second thing the Division didn't do - Collaborating Steve Chanen's testimony with that available from Steve Betts (the Division contacted Mr. Betts, but determined not to call him as a witness; humm?). Mr. Betts was President of Chanen Development Company, and was the person that introduced the Company to Steve Chanen, attended every joint meeting of the companies and would likely testify that:

- There certainly was a detailed framework of an agreement between the companies and Steve Chanen had asked Mr. Harkins when they were going to get that done.
- Stave Chanen had personally approved the content of Chanen Construction Company as incorporated in the May 2014 Barcelona Land Company draft PPM
- Steve Chanen asked Mr. Harkins, during a joint meeting, what was most important to him in a relationship with Chanen:
  - Capital from Chanen,
  - Chanen's abilities as a contractor or
  - Chanen Construction Company's background to be employed in the Barcelona PPM to enhance the capability of the Barcelona/Chanen engagement to assure a reliable hotel construction result.

To which Mr. Harkins replied, 'the incorporation of Chanen Construction's legacy in Barcelona Land Company literature, included any offering documents used to capitalize that entity, was the most of the three factors'.

This pains me but it must be said, that, under oath, Steve Chanen simply did not give accurate, creditable testimony. And to what point as relates to the matters at hand? In that no offering or sale was made of securities of Barcelona Land Company, the matter should be moot, other than a hit on Mr. Harkins' creditability resulting from Steve Chanen's testimony.

Rather than pushing Steve Chanen's testimony, on the above points, Mr. Harkins elected to let it be. Mr. Harkins deemed that it served no purpose to push on. To have done so, would have required calling Steve Betts and Charles Berry as rebuttal witnesses. Calling Mr. Betts would have staged a clear and present danger of destroying the relationship between Mr. Chanen and Mr. Betts. That was something Mr. Harkins felt, with the charges pertaining to the Barcelona Land Company being quarantined as "moot" (no offering or sale made), should be avoided and served no one's purposes.

In a conversation between Mr. Harkins and Steve Betts, that occurred subsequent to the ALJ Hearing, Mr. Betts thanked Mr. Harkins for not putting him in that position.

Mr. Harkins absorbed that hit and moved on. Under the Division's Amended PHB, par 89 (and numerous other places), they continue to claim that an offering of the Barcelona Hotel Land Company was made to Mr. Andrade, in conflict with Mr. Andrade's own testimony that no offering was made to him. The Division does not hold the high ground here.

About the Barcelona Land Company offering. The offering document never graduate beyond a draft. There are versions dated from May 5, 2014 to September 27, 2014 and numerous versions in between those two dates. With that said, the only party the Division has identified to possess a Barcelona Land Company Offering is Mr. Andrade.

To be absolutely clear as to the record of testimony, Mr. Andrade testified that he did not request the Barcelona Land Company Offering as an investment consideration; rather, he wanted to know more about the Company's future plans. He further testified regarding the circumstances around which he received the document; that being, he requested the document as he was leaving a meeting in Mr. Harkins office, and, that was after he had already received a signed promissory note evidencing his $5,000 loan to the Company and his $5,000 check had been delivered to the Company. That is his testimony. This marks the Division's fingertip grip on the Barcelona Land Company made an offering matter. Fatedly flawed. (See pars 236, 253, 254, and other places).

The third thing the Division didn't do - The Division didn't call Allen Weintraub as a Division witness. Why? Under the assumption Mr. Weintraub would not have perjured himself, he would have traced the testimony of Mr. Harkins, that being his (Mr. Weintraub) lack of performance in raising the capital he had assured the Company would be raised for Barcelona Realty (not, for the Company) was potentially devastating to Barcelona Realty and forced Barcelona Realty to jump forward to the land acquisition/entitlement and development component of its business plan, leaving behind the excellent opportunity lost, the acquisition component of Barcelona Realty's plan.

Although the Weintraub 'failure to deliver the acquisition capital' event put things out of sequence, as to Barcelona Realty's intended order of execution of its multi-step

business plan, it did not wield a fatal blow to Barcelona Realty. What was required was the 'gift of time' that would allow Barcelona Realty to arrange for capital for its Hotel Land Company (aka Barcelona Land Company) plan from a source other than Weintraub. That is where the Company, as Barcelona Realty's advisor, came forward with a plan to turn to the broker dealer community to handle the placement of a Barcelona Land Company offering (a.k.a. USA Barcelona Hotel Land Company, LLC). There were other capital markets being explored at the time, but, the broker dealer market took center stage.

Could a broker dealer channel to capital be developed? Going back to the 1980's, Harkins had a successful background developing selling arrangements with broker dealers. Harkins understood the process of developing a selling group comprised on multiple broker dealers. By chance circumstance, the Company found a candidate in Mr. McDonough to head up that effort. McDonough said he was up to the challenge.

Going back to the topic of the $70MM Offering by Barcelona Realty, Mr. Weintraub, although having been remorseful and apologetic for his failure, refused, when requested, to refund to the Company the $75,000 retainer he had been paid. It seems a matter of conjecture as to what effect Mr. Weintraub's testimony would have had on the matters at hand, except, to the following:

The Division's version of Barcelona Advisor's history starts in the mid-life of the Company. It ignores critical matters that require clear understanding as to the role of Barcelona Advisors as an advisor to Barcelona Realty and its affiliates beneath it and parent above it, USA Barcelona Hospitality Holding Company and its parent, USA Barcelona Holdings Operating Company. (see page 48 of Exhibit GTS-2 for a complete organization chart of Barcelona Realty).

Why is the fact that the Division did not call Mr. Weintraub as one of its witnesses an important matter?

The answer becomes obvious. That is, the Division simply didn't know enough to do it and had it done so, it would have wrecked a major part of the Division's misaligned case against the Respondents. This is a major structural flaw in the Division's case. Plain and simply put, the Division didn't do sufficient work to determine if McDonough had exposed a matter that required them to engage. Rather, the Division simply responded to whatever it was that Mr. McDonough brought to the Division's attention. It's like the military use of saturation fire. The warlord leader of the Division gave the order, "Ready, Fire …aim". They're still, after over 18 months engaged, not on target.

The Division started with what Mr. McDonough alleged about the Company. To be clear, Mr. McDonough was not a manger or decision making executive of the Company. To his chagrin, there was much to know about which he knew nothing. There were no hidden away clandestine Company or affiliate secrets. Simply, Mr. McDonough was not positioned in the Company to know. Mr. McDonough was not hired to be a deep operator in the Company. He was hired to do one thing he represented he could do, raise capital, which he did not do, and to work with Harkins to develop a broker dealer selling group to handle Barcelona Realty's capital offerings.

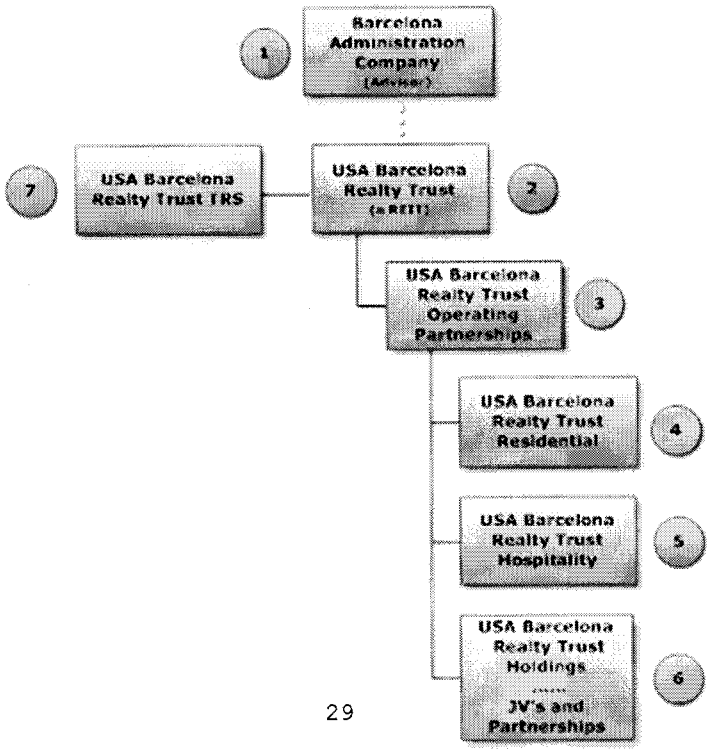
Blank

It is highly likely that only Mr. Harkins and the Company's attorney, Charles Berry, truly grasped the structure of the Barcelona enterprise and how the command and control apparatus was designed to function. The chart below is an exhibit in Barcelona Realty's PPM (exhibit GTS-2, page 15).

The chart shows the Company's role as advisor to Barcelona Realty (then named Barcelona Realty Trust) and its affiliates. Here's what note 1 says (recall that BAC was renamed USA Barcelona Advisors):

> "Barcelona Administration Company ("BAC") – BAC is organized to be the **Advisor** to a series of Funds, including USA BRT, and the administrator of each of the Funds subsidiaries."

The Division did not raise any matter pertaining to the USA Barcelona Realty, Inc. $70,000,000 offering or anything to do Barcelona Realty; or, why the Company restarted in October 2102. (The above subject offering is exhibit GTS-2).



The restart of Barcelona (speaking collectively of Barcelona Advisors as the advisor to Barcelona Realty) was based on four factors:

1. **Time was right to execute a solid plan already developed** - At that time, 2012 Q4, the opportunity to acquire branded limited service hotels was very good. Mr. Harkins had the contacts with owners of such hotels who were also desirous of selling their mature properties. Mr. Harkins had identified over $300,000,000 of solid hotel acquisition candidates, primarily in the Marriott and Hilton brands. A similar opportunity and circumstances existed for acquiring Class A Apartments.
2. **Acquisition capital could be arranged** - Allen Mr. Weintraub and Mr. Harkins had been in discussions for over 18 months regarding Mr. Harkins plan for the Barcelona companies. When Mr. Harkins told Mr. Weintraub he was about ready to proceed, but only if Mr. Weintraub was confident in his ability to raise the funds required for the Barcelona Realty business plan, Mr. Weintraub committed. That commitment was to raise the acquisition capital required for the Barcelona Realty business plan through a $70,000,000 offering to be made by Barcelona Realty. Mr. Weintraub was paid a $75,000 retainer and thereafter would be paid 2% of capital raised under the Barcelona Realty $70,000,000 offering.
3. **Working capital could be arranged** - In this same time-frame, Mr. Harkins, Mr. Simmons and Mr. Kerrigan has discussions regarding the startup of Barcelona Advisors and Barcelona Realty. Mr. Harkins stated that some capital was needed near-term (likely the amount $30,000 was used) and that an

additional $1,000,000 in working capital would be required for Barcelona Advisors to do the work, as advisor for Barcelona Realty, to get it to its offering minimum of $8,000,000.

Mr. Kerrigan stated that he could and would raise the working capital required by Barcelona Advisors. The escrow break for the Barcelona Realty offering was scheduled for August 2013 (later moved to October of that year to facilitate Mr. Weintraub's delivery schedule). The Company was due substantial payments from proceeds of the Barcelona Realty minimum offering proceeds.

The scheduled timing of reaching the minimum offering / escrow break of the Barcelona Realty offering was a key factor in sizing the Company's working capital needs at $1,000,000. That cover both the Company's working capital needs and advances it would need to make to Barcelona Realty for its offering related expenses, including legal fees and the retainer payment made to Mr. Weintraub.

4. **Required legal work could be financed** - Charles Berry committed to do the Barcelona Realty offering for a fixed fee of $100,000 and to take the payment in stages proposed by Mr. Harkins that fit with Mr. Kerrigan's timing estimates for his raise of working capital.

With these four factors in suitable shape, Barcelona Advisors restarted in October 2012. It took six months to accomplish the work required to assemble the Barcelona Realty's $70,000,000 acquisition capital offering and Barcelona Advisors' initial

$1,000,000 working capital offering (the October 12-6-12 Offering), plus a number of other essential pre-operating matters.

In its story of the Company, the Division skipped over these most germane issues underpinning the Company. The elements of Barcelona Realty and the entire history of the Company. Therein lies the bedrock of the Company, yet, entirely omitted by the Division. Why did the Division leave all of this out of its version of the Barcelona Advisors matter? One reason is the business plan laid out in the Barcelona Realty offering document covers both the acquisition of properties and new construction (of properties) plus other forms of business that may be pursued, such as joint ventures. All of that are components of Barcelona Realty's business plan.

The importance of the above is it undermines the Division's claim that the **Company** "changed its business plan" (see par 152). The **Company** never altered its business plan to function as advisor to Barcelona Realty. It was Barcelona Realty that shuffled its business plan to adjust for what Mr. Weintraub didn't do.

No investor in the Company was harmed by what the Company did in managing its own shop or the affairs of Barcelona Realty. The Company did a remarkable job of advising Barcelona Realty through the demands of changing conditions and circumstances. Indeed there were tall challenges and tough times for the people in the Company. In got to where the Company had to withdraw from its fine offices and operate from Harkins house.

From his home office, Harkins fully intended to bring the Company back into the mainstream. The Division stopped that process. As is demonstrated herein, and throughout the entire process of the Division's pursuit of the Company and its Executive Members,

the Division acted without even reasonable cause. The Division should be held accountable and should pay the price for its highly inappropriate actions (see "Conclusion" hereto).

To finish with the point about the Company's business plan, return to the 12-6-12 Offering and the first paragraph of the front page, which reads:

"This Offering is being made to provide USA Barcelona Realty Advisors, LLC. ("USA BRA", "Company", "us", "we") with working capital to fund the organization stage expenses of USA Barcelona Realty, Inc. ("USA BR") for which we are its advisor ("Advisor") and working capital requirements of the Company."

The Company never wavered in executing its business plan. The Division simply doesn't understand there are multiple companies involved, each with their own unique business plan (reference to organization chart, page 29). Barcelona Realty Advisors stayed on mission in executing its business plan.

The fourth thing the Division didn't do - Why didn't the Division call Paul Mr. Meka as a Division witness – Mr. Meka's testimony would have included a history behind and summary of the charges which resulted in his felony conviction. It would have been disclosed that those charges in no way impaired his ability to be a productive member of the Barcelona office administration team. Further, his conviction came with acknowledgment from the Court that he did not know what the owners of the company that employed him were doing (which is where the securities offenses occurred, with them, not Mr. Meka), rather, given his experience in business, no matter what the owners did to conceal their activities, Mr. Meka should have known.

Concluding the Preamble - The Division has left out great matters of substance while attempting to create a picture of Bad Actors doing bad things to unsophisticated people with whom the Company's executives had, in some cases, no prior relationships.

All of that is simply wrong. The Division is off base at every turn. This is a case of the prosecution seeking a WIN at any cost. The Division should not prevail in this case.

With submittal of the Harkins Post Hearing Brief, this matter will be in the hands of the Hearing Division. Of course the Division gets the last shot at unraveling Harkins' view of the matters at hand. They can't unravel the truth and the factual basis underneath the Company's actions and activities.

With this Post Hearing Brief, Harkins has said his piece. Yet, he continues to wonder what Mr. Burgess had in mind when he said, at the conclusion of the settlement meeting between Mr.'s Harkins, Kitchin and Burgess held on March 14, 2016, and Harkins quotes: "We like our chances .. **under our system**."

What a cocky, arrogant and unseemly thing to say. However, it does tie with what three highly practiced attorneys have had to say to Harkins. Without naming names and providing quotes, they each stated in their own words that, in the Commission's ALJ system, the deck is always stacked in the Division's favor. Really? Why? How?

That being said, Harkins impression of ALJ Preny does not correlate with such opinions. Harkins believes the evidence, testimony and facts put the Division in a bad spot and ALJ Preny will make his recommendations to the Commission along those lines.

Mr. Harkins' Post Hearing Brief

I. Agree with the Division's Part I of its amended post-hearing brief.

II. Agree that the Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

III. Facts

Mr. Harkins' remarks herein are intended to correlate by paragraph number with those paragraph numbers employed in the Division's Amended PHB. In the instance of any referral by the Division in any paragraph contained in its Amended PHB to any Respondent other than Mr. Harkins, Mr. Harkins has no reply unless stated otherwise herein.

Part A – Respondents

1. None

2. None

3. Mr. Harkins is and was not required to be licensed as a securities salesman or dealer as any offer or sale of securities conducted by him was in his capacity as an Executive Member of the issuer. All Company offerings were exempt, both from an issuer and salesman standpoint, as "offers and sales not involving a public offering".

4. None

5. None

6. None

7. None

8. None

Part B – Control of Barcelona Advisors and Barcelona Land Company

9. None

10. None

11. None

12. None

13. None

14. None

15. None

16.A matter that is determined by legal statutes and one to which I do not opine.

Part C – 12-6-12 Offering

17. The Division cites three versions of the 12-6-12 which included the original 12-6-12 Offering dated October 18, 2012 (the "Original 12-6-12 Offering"), a first amended version dated February 1, 2013 and a second amended version dated April 29, 2013.

The fact is, the October 18, 2012 12-6-12 Offering was not submitted into evidence.

The Division only guesses that the amended 12-6-12 offerings are closely similar to the October 1, 2012 12-6-12 Offering. The Division should not be allowed to base its follow-on charges and allegations tied to the October 1, 2012 12-6-12 Offering around such a guess(es). Possibly the Hearing division will find that any Division charge or allegation based on the October 12, 2012 12-6-12 Offering should be summarily dismissed.

Let's say that is what should be done. The permutation and combination of markups to the Division's charges and allegations would create a minefield through which any remaining charges and allegations would need to negotiate in order to survive. Mr. Harkins

has not undertaken the task to develop the schematic needed to clearly see how this would play out. Rather, Mr. Harkins believes this entire matter is so fatally flawed as to require dismissal in the entirety. However, if necessity calls, such a schematic will be developed and presented at the appropriate venue.

18. None

19. The one exception cited by the Division is actually two exceptions. Both exceptions (Burleson and Mr. Eaves) are disqualified from inclusion in the 12-6-12 Offering. ;in both cases, the terms of the notes and associated units (in the case of Mr. Eaves', in the case of Burleson, there is only a Note as there were no Units associated with her Note) clearly differ from the terms of the 12-6-12 offering and by statute these two exceptional securities must not be included as investments in the 12-6-12 offering.

The two investments that are not allowed to be included in the 12-6-12 are:

Burleson – $50,000 – the Note includes "put" conditions which are not incorporated in the Notes offered as a part of the Investment Unit in the 12-6-12 Offering. Further, there are no Units associated with the Burleson $50,000 Note. This disqualified the Burleson investment from inclusion in the 12-6-12 Offering.

Mr. Eaves – July 2013, $250,000 – the Loan made by Mr. Eaves included Class A Units rather than the Class B Units as included in an Investment Unit in the 12-6-12 Offering. The Class A Unit has two distinguishing features that clearly differentiate it from the Class B Units:

- Class A Units have a voting right with no defined restrictions whereas the Class B Unit has no voting rights other than to vote on a change in the Operating Agreement that would affect their economic interest in the Company.

- Class A Units have significantly different distribution rights from Class B Units, as stated in the following:.
  - Class B Units have a fixed return which is a priority distribution right over Class A Units.
  - Class A Units are subordinated to Class B Unit distribution rights; otherwise, all Class A Units share in any general distribution made to the Class A Members.

These two features disqualify the Mr. Eaves investment from inclusion in the 12-6-12 Offering.

The net result of these two investments not qualifying as 12-6-12 investments is to put the total 12-6-12 securities sold at face $670,000, not $970,000 as claimed by the Division.

This may be a factor in the determination of one part of the Division's claims which is that all Barcelona offerings sold (the 12-6-12 and the 10-5-10) should be integrated into one offering. The likely motive on the Division's part in reaching for this objective is to assert the position that the integrated offerings, if they exceeded $1,000,000 in sales in a twelve-month period, disqualify the offeror for an exemption under Arizona's 140 statute, should that be an exemption to which the Company sought reliance.

The Division choses to ignore the clear distinction between the Burleson and Mr. Eaves stand-alone investments from the investment offered under the 12-6-12 Offering. To this end, the Division incorrectly asserts that $970,000 was raised under the 12-6-12 Offering.

$670,000 was sold under the 12-6-12 Offering and $150,000 was sold under the 10-5-10 Offering. This results in $820,000 is sales under the 12-6-12 and 10-5-10 offerings. So the Division has to conjure up more.

To get to the Division's $1,000,000 objective, they must claim, successfully, other loans taken out by the Company constitute "securities" and in sufficient amount to get to their over $1,000,000 objective.

That is likely why the Division asserts that all of the Burleson $50,000 Stand-Alone Transaction and Mr. Eaves $250,000 Stand-Alone Transaction are securities.

Clearly, the aforementioned Burleson and Mr. Eaves Stand-Alone Transactions, each individually negotiated between the Company and Burleson in one instance and between the Company and Mr. Eaves, are not securities transactions (see par 19).

As for Mr. Eaves, from the time of his investment in the 12-6-12 Offering in May 2013, and to an even greater extent starting with his first Stand-Alone Transaction with the Company in July 2013, he has had been closely involved in Company matters. Mr. Eaves financial transactions with the Company are summarized in the following chart:

Transaction Date	12-6-12 Offering	Stand-Alone Transactions	Member Units
5-2013	$250,000		Included Class B Units [1]
7-2013		$250,000	Options for 250,000 Class A Units [2]
12-2013		125,000	Options for 250,000 Class A Units [2]
2-2014		125,000	Options for 250,000 Class A Units [2]
7-14-14		15,000	None
8-1-14		15,000	None
Totals	$250,000	$530,000	[1] 1 Class B Unit [2] 750,000 Class A Units

20. Mr. Harkins reviewed each subscription agreement and investor qualification form submitted by the 8 investors who subscribed to the 12-6-12 Offering. In all instances except Preamble, by the nature of their complete execution of the agreements, the subscriber attested to qualify as an accredited investor under one of the listed categories.

Burleson exception –Burleson at the time was a Mr. Kerrigan client and invested through Mr. Kerrigan's recommendation. Mr. Harkins, who is Burleson's "significant other", at her request, reviewed Burleson's $100,000 subscription agreement to the 12-6-12 Offering. During the ensuing discussion, Burleson asked if she could have part of the $100,000 investment with different terms. Specifically, she wanted to have $50,000 in a Note that she could put back to the Company.

Mr. Harkins suggested that could be accomplished but there must be two different transactions. One would be a 12-6-12 investment and the other a straight note. Accordingly, Burleson made an investment and a loan. The investment was $50,000 in the 12-6-12 and a loan, with no accompanying Units, in the amount of $50,000, evidenced under a note with "put" provisions. Burleson executed the Subscription Agreement to the 12-6-12 with a check in the subscription agreement by "Other Accredited Investor" and wrote that she qualified as an accredited investor based on her relationship with the sponsor. Wherein this likely does not qualify her as a spouse of an accredited investor or spouse of a principal of the issuer, Mr. Harkins looked to Mr. Kerrigan to confirm that Burleson met accredited investor qualification. Mr. Kerrigan confirmed to Mr. Harkins that based on his knowledge of her financial circumstances, she qualified as an accredited investor based on her Net Worth.

All investors in the 12-6-12 Offering are accredited investors.

During the ALJ Hearing, Carolin testified that she executed her two separate subscription documents herself, with the exception, in both instances, of checking any box indicating she qualified as an accredited investor. She testified that she does not know who checked the boxes in the two separate subscription agreements.

Carolin invested twice in the 12-6-12 Offering, several weeks apart. She testified that she did not check any accredited investor qualification box in either subscription document. Mr. Harkins finds Carolin's testimony to be disingenuous in both instances. Mr. Harkins questioned Mr. Kerrigan on this matter and Mr. Kerrigan stated that to the best of his knowledge, Carolin fully executed the initial subscription documents herself and assured Mr. Harkins that he, Mr. Kerrigan, had no role in putting any mark on the initial subscription agreement.

In the instance of Carolin's second investment in the 12-6-12 Offering, Mr. Harkins met with Carolin (a meeting at which Mr. Kerrigan was supposed to attend but showed up as the meeting was ending) to review the offering and the subscription documents. It is unclear if Carolin executed the subscription documents in the meeting with Mr. Harkins or at some subsequent time. The matter of whether Carolin qualified herself as an accredited investor remains a matter of conjecture. Mr. Harkins and Mr. Kerrigan have asserted that neither of them made the marks that Carolin testified she did not make.

Carolin is a CPA and co-owner of her own CPA practice. In that capacity, she deals with sophisticated persons who deal in sophisticated matters. In the early months of the startup of the Company, Carolin provided accounting services over a several month period,

including setting up the Company's accounting system. Carolin was paid to do so. Carolin is an experienced and sophisticated business person.

She testified that the loss of her investment (matter of her perception and not a matter of fact as she is aware that I plan to continue in business and see that all Company investors will have a position in my position in any business opportunities in which I engage) caused her to sell her home.

That statement doesn't correlate with the fact she invested with funds from her retirement account and the gain or loss of her investment in the 12-6-12 Offering, by her own attestation in paragraph 2 of her subscription documents in the 12-6-12 Offering, wherein to paraphrase paragraph 2, "I have adequate means of providing for my current needs ..", has no bearing on her ability to afford to remain in possession of her home.

Mr. Harkins met Carolin through his relationship with Mr. Kerrigan and found her to be an intelligent and ambitious person. Mr. Harkins does not understand why Carolin would give such suspicious testimony about her investor qualification status, even to the end of seeking recovery of her invested capital.

A point that may have an influence in determining the nature of Carolin's highly questionable testimony is that she and Mr. Kerrigan were in a two plus year romantic relationship at the time she invested. Shortly after her second investment in the 12-6-12 Offering, she broke off that relationship over matters that she found offensive regarding her suspicions of Mr. Kerrigan's dealings with other women.

Of the eight investors in the 12-6-12 Offering, three did not testify at the ALJ Hearing. They are Burleson, Chamison and Bair. Four of the other five did testify and the fifth had his testimony submitted in lieu of a personal appearance. In the instances of these

other seven investors in the 12-6-12 Offering, none testified other than they did fully execute the subscription agreement presented to the Company for review and acceptance of them as an investor in the 12-6-12 Offering.

Ms. Carolin was not the only investor to recant their representations as acknowledged by their signature of the Investor Questionnaire and Subscription Agreement. (Carolin was the only person in the 12-6-12 Offering; Stewart most likely did during her testimony but you had to be there to understand how difficult it became, and is, to understand what she said). Mr. Harkins finds two things grossly wrong here.

- They did not deal with the Company in good faith. They certainly wanted an investment return tantamount to the risk taken; but,
- They looked elsewhere for return of investment when risk appeared on the scene. The Division encouraged them to believe that, with compelling testimony from them at the ALJ Hearing, the Division could get them some portion of their investment repaid via restitution judgement imposed on the Respondents.

To be clear, the Company did not go out of business. It closed its operations office due to lack of capital, which at that time appeared to be a relatively short-term issue. As testimony supports, Mr. Harkins continued to explore ways to further development the Company's business plan or develop a new business plan that would carry the Company's investors forward. Mr. Harkins stayed in communication with the investors regarding potential opportunities.

Division's Interference - It was the Division's actions that curtailed Mr. Harkins' abilities to further pursue potential business opportunities. To date, the protracted nature of the Division's initiatives, which now approach some 19 months, are what most

immediately pose a risk to the investors loss of investment, not, Mr. Harkins' intent to go forward in business, include the investors in a portion of his interest in any such enterprises, and make the investors' investments good.

21. The October 18, 2012 12-6-12 Offering was not submitted into evidence

22. In pars 17. and 21., the Division cites three versions of the 12-6-12 which included the original 12-6-12 Offering dated October 18, 2012 (the "Original 12-6-12 Offering"), a first amended version dated February 1, 2013 and a second amended version dated April 29, 2013. However, the Division's par 22 only refers to the first and second amendment. The fact is, the Original 12-6-12 Offering was not submitted into evidence.

Throughout a great deal of the division's amended post-hearing brief, reliance is placed on the Original 12-6-12 Offering as the framework of numerous Division allegations. Mr. Harkins takes the position that any Division allegations that require underlying support of representations contained in the Original 12-6-12 Offering be summarily disallowed.

Such a ruling would have minimal impact on the matters before the Hearing Commission for its consideration and recommendation to the Commission, as only Kelly Bair invested under the Original 12-6-12 Offering. Bair elected not to testify as a Division witness and was not requested by any Respondent to do so. Bair has not filed any form of enjoinment to the Division's quest to prosecute the Respondents.

23. As the Division is aware through testimony at the ALJ Hearing and various testimony by Respondents prior to the ALJ Hearing, the Company sought and received the investors approval of a deferral of the subject interest payments and made said deferred payments on a timely basis.

Part D – 12-6-12 Investors

Kelly Bair

24. Ms. Bair was introduced to Mr. Harkins by Jerry Austin, whom at the time was the insurance agent for Bair's Company and Barcelona. In Mr. Harkins initial meeting with Bair, he explained that to invest in the 12-6-12 Offering any person had to meet accredited investor standards. Through a discussion of the various ways an individual could qualify, Bair stated that she met the accredited investor test. At the time Bair subscribed, her Investor Questionnaire and Subscription Agreement confirmed that she was an accredited investor under the Net Worth test.

There is no requirement of the Company to question an investor applicant's attestation as contained in their Questionnaire and Subscription Agreement. This is one more instance of the Division refusing to accept the Company's actions as a "properly carried out business practice", rather, choosing to paint the Company as a "Bad Actor". Mr. Harkins considers this yet another violation of the Division's proper activities under its prosecutorial duties.

Rodney and Melisa Mr. Eaves

25. Prior to the January 15, 2013 meeting at Talking Stick Resort, Mr. Eaves was introduced to Mr. Harkins by Mr. Kerrigan at a meeting held at the Orange Tree Resort. At that initial meeting, Mr. Harkins and Mr. Eaves has a discussion about their business backgrounds. This is the initial time that Mr. Harkins went over his experience with Kitchell Corporation and its custom home division ("Kitchell Custom Homes") and Coldwell Banker Success Realty's affiliate "Developers Marketing Services". There was a thorough discussion of their involvement with Mr. Harkins prior Company Desert Fox

Associates in the creation of Arizona Village Communities. Mr. Eaves discussed his knowledge of Kitchell as his prior employer and Kitchell were both large contraction companies.

On at least two other occasion, Mr. Eaves heard Mr. Harkins discuss AVC in the context of a part of his business background. Mr. Harkins discussed his background at the Talking Stick meeting in January 2013 at which Mr. Eaves was an attendee and again at the Company retreat in August 2013, which was attended by Mr. Eaves.

Mr. Eaves misspoke or gave false testimony - This is the correct time to assert this information about Eave's awareness of Mr. Harkins involvement with AVC as later herein the Division will assert that Mr. Eaves became aware of Mr. Harkins involvement with AVC long after he had made his investment in the 12-6-12 and his loans to the Company. Mr. Harkins holds Mr. Eaves in high regard and believes that Mr. Eaves is unclear on when and where he was when Mr. Harkins discussed AVC, or, he has steered into his erroneous testimony.

26. I cannot opine on what Mr. Eaves understood.

27. None

28. I have no information one way or the other.

29. Incorrect. As previously stated and discussed in paragraphs 19, 20, Mr. Eaves second transaction with the Company was not in the 12-6-12 Offering.

Further, Mr. Eaves had substantial undated information on the Company post the February 2013 PPM. By the stated date of July 18, 2013, Mr. Eaves had attended a number of Company meetings, lunches and received numerous Company newsletters. At this point

in time, Mr. Eaves had substantial and highly confidential information on the Company. In fact, he was an "Insider".

Roberta Burleson

30. Incorrect. As stated in the Preamble and paragraphs 19, 20, Burleson made one $50,000 in the 12-6-12 offering.

This may be among the top 5 disingenuous of the Division's endeavors. The second Burleson transaction with the Company is clearly not the same as the 12-6-12 investment. The very nature of the "put" terms in the note cast it outside the 12-6-12 and there are no units or rights associated with the loan.

If a scenario was concocted where an issuer wanted to classify a similar note to the Burleson's note into an offering identical to the 12-6-12, the Division would shoot it down in an instant, and correctly so.

Investors in an offering of a security are all bound under the same terms and conditions as specified in the offering memorandum. Should any one or more investor want a deal other than what is specified in the offering memorandum, they must engage in an unrelated transaction that offers such terms and conditions.

Further, Burleson learned of the Offering from Mr. Kerrigan, then her financial advisors, not, from Mr. Harkins. Burleson and Mr. Harkins were then and are now significant others but Mr. Harkins had not inquired as to Burleson's financial means and capabilities. Nor, has he to date. Mr. Kerrigan informed Mr. Harkins that Burleson would be investing in the 12-6-12. Mr. Harkins received assurance from Mr. Kerrigan that Burleson met accredited investor qualification.

It was with this knowledge that when Burleson was prepared to execute the subscription documents for the 12-6-12, Mr. Harkins was asked by Burleson to go over the investment with her. In so doing, it was determined that she was comfortable with a more

limited amount to be invested in the 12-6-12 and desired to have a different amount that she could put back to the Company if she so desired. From that came the two different transactions as discussed in par. 19.

31. The Division uses the term "standard 12-6-12 Offering". In the world of securities there in no "standard" Offering, there is an Offering. The Division implies that an Issuer may make an Offering of the same Class of Security to multiple investors and have the latitude to but change the terms from one investor to another. The Division surely knows that one doesn't fly.

32. As stated by the Division's own words, the second Burleson transaction with the Company had a second reason it could not be in the 12-6-12 Offering. It was a Stand-Alone Transaction and not bundled with a member unit. Yet, they very much want it to be in the 12-6-12 Offering.

Richard Woods

33. I have no knowledge of what conversation transpired between Woods and Mr. Kerrigan.

34. The Division offers speculation.

Kathleen Carolin

35. Refer to par 20.

36. Refer to par 20.

37. Refer to par 20

38. Refer to par 20

39. Refer to par 20

40. Refer to par 20

William Jordan

41. None

Ridick Ramirez

42. None

Nancy Chamison

43. None

44. In Mr. Harkins review of Chamison's Questionnaire and Subscription Agreement, she completed the document in its entirety and signed same. She qualified herself as an accredited investor by placing an "x" mark adjacent to $1,000,000 Net Worth. If, as the Division has indicated, Mr. Kerrigan had knowledge of Chamison's net worth to be "over $500,000", that was his knowledge and not Mr. Harkins'. Mr. Harkins knowledge of Chamison's qualifications were based on her representations as contained in her signed Questionnaire and Subscription Agreement.

45. The Division is incorrect in stating the total investment in the 12-6-12 Offering to be $970,000. This is summarized as follows:

Investor	Investment included in 12-6-12	Division's improper classification of amounts that cannot be classified as securities
K. Bair	$20,000	
R. Eaves	250,000	$250,000
R. Burleson	50,000	50,000
R. Woods	100,000	
R. Ramirez	100,000	
K. Carolin	50,000	
W. Jordan	50,000	
N. Chamison	50,000	
Total	$670,000	$300,000

46. None

Part E – Additional Mr. Eaves Notes

In the Mr. Eaves matter in general - The Division starts its Part E with the header, "Additional Mr. Eaves Notes". The emphasis here is on the Division's use of the term "Notes". In their Part E, the Division departs onto a different path and calls these transactions "investments".

Therein, the Division misclassifies a number of Mr. Eaves transactions with the Company as "investments" wherein in fact they are "loans". The Division is certainly knowledgeable of the difference between "investments" and "loans".

The Division has a clear motive in misclassifying certain Mr. Eaves transactions as it carries to the Division's desire to roll up all of the Company's capital activities as conducted under the 12-6-12 or 10-5-10 Offering; and, if they can't achieve that objective, then they attempt to classify any other capital transaction as an "offering".

The Division is disingenuous in its motives. Another clear violation of its Prosecutorial obligations.

47. Incorrect. Mr. Eaves invested once in the 12-6-12 Offering in the amount of $250,000. (ref Preamble, pars. 19, 20)

48. Agree other than if directly or indirectly here or elsewhere the Division attempts to classify this Mr. Eaves Loan as an investment in an Offering, which was not the case.

49. The Division offers a limited and distorted view of Mr. Eaves interest in the Company. This is somewhat based on Mr. Eaves very limiting testimony at the ALJ Hearing under questioning by the Division. Mr. Eaves' testimony was parceled out around

the limiting questions asked by the Division and by his incorrect recollection of numerous facts and circumstances.

The fact of the matter is: in addition to wanting to protect his invested capital, Mr. Eaves believed the Company had solid prospects for achieving its aims and desired to be a part of the Company. This is evidenced by several significant factors, brought forward in his testimony, including:

- his acceptance of employment by the Company in an executive capacity
- his role as an Executive Member of the Company
- his participation in meeting with prospective contractor/joint venture partners
- his ongoing agreement to defer payments on his existing investments, which was the case with all Respondents with capital loaned to or invested in the Company
- his introduction of prospective contractors and investors to the Company.

50. Incorrect. Mr. Eaves' fourth capital transaction with the Company was a loan to the Company evidenced by a note that had associated rights.

51. Mr. Harkins has no knowledge of what was said by either party during any Mr. Eaves conversation with Mr. Simmons and Eaves testimony is qeuestionable.

52. Incorrect. Mr. Eaves' fifth capital transaction with the Company was a loan to the Company evidenced by a note that had associated rights.

53. Incorrect. Mr. Eaves met with the Executive Members. Everyone was asked to put up all or part of $15,000. Only Mr. Eaves stated that he could and would. This Mr. Eaves transaction was evidenced by a Note and there were no associate rights. Mr. Harkins does not know to whom Mr. Eaves gave his check but acknowledges the check was received by the Company.

54. Incorrect. Mr. Eaves made a loan to the Company. It has no accompanying features.

55. The nature of the meeting is basically correctly described. However, the incorrect portion is clarified in the following:

Mr. Eaves met with the other Executive Members. Everyone was asked to put up all or part of $15,000. Only Mr. Eaves stated that he could and would. Mr. Harkins does not know to whom Mr. Eaves gave his check but acknowledges the check was received by the Company. This Mr. Eaves transaction was evidenced by a Note and there were no associate rights.

56. **Incorrect** on two points:

- First, it is more likely than not, that Mr. Eaves received the October 12, 2014 12-6-12 Offering which, as previously stated in par 17, is not in evidence. There has been no testimony or evidence presented to the contrary.

- Second, the Division chooses to ignore the progressive and extensive relationship Mr. Eaves had with the Company dating to prior to his initial investment but with focus on the period March 2013 forward through September 2014. In this period, Mr. Eaves attended no fewer than twenty Company weekly team meetings (likely more), numerous executive member lunches, executive member and executive committee meetings, attended the summer 2013 Sedona business retreat, the Fall 2013 invitational meeting at Lon's, Rod and Melisa Mr. Eaves participated in the Company Christmas dinner, received numerous monthly Company communiques, became an executive officer of the Company and then an executive Committee Member and made introductions to the Company of persons Mr. Eaves described as potential investors. Mr. Eaves, from the

Spring of 2013 forward, had a real-time knowledge of Company business activity, plans and requirements.

57. The notes representing loans to the Company and associated rights invested in by Mr. Eaves were not part of a public offering and were therefore not under any registration requirement, whether Federal or state and consequently do not fall under any authority of the Arizona Corporation Commission ("Commission").

To the point of the Mr. Eaves' loans to the Company, the Division has distorted Mr. Eaves involvement with the Company in an attempt to make it appear Mr. Eaves, a super sophisticated real estate business person, was deceived and hoodwinked into conducting an ongoing series of financial transactions with the Company.

Mr. Eaves testimony contradicts the Division's disingenuous efforts. Given Mr. Eaves substantial capital placed in the Company, were the Division successful in its quest to defame Mr. Harkins, it then would make it appear that every investor was deceived by Mr. Harkins.

There is absolutely no foundation in fact to support the broad brush attack the Division has made on the Company and Mr. Harkins regarding the Company's 12-6-12 offering and the Company's dealings with the eight persons who invested in the 12-6-12 offering.

58. This is a grossly misleading statement. Not with-standing that statement, Mr. Harkins agrees with the Division's statement in par 58 to the extent of the printed word. What the Division conveniently omitted, as it does not serve their purposes, is that Mr. Eaves consented to the deferral of payments on his loans.

59. The Division's math is incorrect (for obvious and previously covered reasons; see par. 19). Mr. Eaves made $530,000 in loans to the Company as evidenced by stand-alone Transactions, some of which reference "rights options", and a $250,000 investment in the 12-6-12 Offering. Mr. Eaves is, by every reasonable standard used to define a sophisticate real estate investor, a sophisticated real estate investor.

Mr. Eaves was an insider in the Company, privy to every morsel of information as to the Company' status and plans. With this body of knowledge in hand, he made his $530,000 of loans and $250,000 investment in the 12-6-12 Offering for he believed in the Company, its people and its opportunities for success. To such a degree did he believe, that he elected to join the Company first as an officer and then as an Executive Committee Member.

Unlike employees of entities whom find comfort in working for others who take the risk of making an enterprise successful, Eave's was of the ilk to take on the risks of making a Company work. He had every intention of sharing the rewards of "venture" by taking the "risks" involved in striving for success.

60. None

61. Mr. Eaves was an Executive Member and participated in the Executive Member decision to close the Company's office. Mr. Eaves was an insider.

This is an important point. Mr. Eaves participated in what likely was the most important decision made by the Company. For, had the Executive Committee determined to ante up the capital required to keep the Company operating in its business office, or arranged such capital from others, matters would have unfurled in a fashion different from what occurred. To what end cannot be determined.

Part F – 10-5-10 Offering –

62. The 10-5-10 Offering was not similar to the 12-6-12 Offering as it offered a different security and revealed a different elements of the Company's business plan than that described in the 12-6-12.

The Division's statement that the change in terms was to make the 10-5-10 "less generous" than the 12-6-12 is so stated in the Division's words.

63. Once again the Division is rendering its opinion, to which it is not entitled to be asserting herein. How many fouls is that on the Division at this point?

Testimony by Mr. Harkins at the ALJ Hearing is that the Company missed the acquisition opportunity that was clearly present in late 2013 through 2013 but had evaporated by late 2013. The Division is correct that the opportunity was missed because the Company did not raise the capital planned for acquisitions. The Company was defrauded by the person (Allen Mr. Weintraub) who was retained via substantial upfront payment to arrange $70,000,000 of acquisition capital for the Company.

The Company is concert with counsel constructed an offering memorandum for this sole purpose and had 1,000 copies printed at a cost of $22,000. In addition to over $100,000 in legal expenses associated with the offering, the Company invested over $25,000 in the development of specialty software track offerings, offering documents, selling agreements and sales.

Despite Mr. Weintraub's assurances to the Company that he would provide sufficient capital to meet the November 1, 2013 escrow break of $7,000,000, and continue on through the raise of the remaining $63,000,000, the escrow break date was missed and in late 2013 it became clear Mr. Weintraub would not perform. In front of the entire Sedona Retreat group in late August 2013, he stated his unconditional assurance that he was on schedule.

Now, dealing with the fact that Mr. Weintraub was not going to deliver, took some business plan adjustments. The Company's business plan had accommodations for both acquisition and development of hotels, apartments and other real estate.

The Company made the adjustment from acquisition to development and moved forward. It's curious to the Company that the Division did not call Mr. Weintraub as one of its witnesses. Mr. Harkins believes the reason is clear. It would have painted an entirely different picture of the Company's executive to deal with the execution of its business plan and would have weakened an already in shambles effort to get some sort of victory for the Division.

The Division's quest has nothing to do with getting the investors recovery, it has everything to do with proving they can get a ***win*** here. In fact, the Division knows Mr. Harkins was intending to restart the Company and it threw the biggest roadblock up it could muster. In that regard, some terms come to mind. Malicious prosecution and gross interference with a private business are in the group.

64. None

65. None

66. None

67. None

Pam Stewart

68. Mr. Harkins does not know what Mr. Kerrigan knew about Pam Stewart as an investor candidate for the Company's 10-5-10 offering.

69. Mr. Harkins has no knowledge

70. Mr. Harkins comments as follows:

The withdrawal of funds by Stewart from her retirement account had no extraordinary impact on Stewart's tax liability.

Reason: based on Stewart's age (past 59 ½) at the time of withdrawal, there would be no early withdrawal penalty. The withdrawn amount would have been included as ordinary income on her tax return, taxed at whatever rate was applicable to her taxable income in that tax year.

Richard Andrade

71. Acknowledge Andrade invested $50,000 in the 10-5-10. Nothing more as to par 71.

72. No knowledge

73. No knowledge

74. Uncertain of date

75. No knowledge

76. Division states an opinion

77. No knowledge

78. If this is the case, Andrade defrauded (as to hardship) himself by executing the 10-5-10 subscription agreement. Andrade attested to the subscription agreement which incorporates the following:

Representations and Warranties. I represent and warrant to the Company that:

> "I (i) have adequate means of providing for my current needs and possible contingencies, and I have no need for liquidity of my investment in the Investment Units, (ii) can bear the economic risk of losing the entire amount of my investment in Investment Units, and (iii)

have such knowledge and experience that I am capable of evaluating the relative risks and merits of this investment."

79. Two points:

- The Division has brought no testimony nor provided any evidence that any portion of the 10-5-10 Offering proceeds were used for any specific purpose by the Company; however, to the extend it would matter, then,
- The 10-5-10 Offering included disclosure that the Company can use the working capital provided from offering proceeds for the general business purpose of the Company.

citing from the 10-5-10 Offering:

On the front cover of the 10-5-10 Offering memorandum, the first line of the first paragraph reads:

"This Offering is being made to provide USA Barcelona Realty Advisors, LLC. ("USA BRA", "Company", "us", "we") with working capital to fund the organization stage expenses of USA Barcelona Realty, Inc."

On page two of the Offering memorandum, is stated:

"Working Capital will be established from Offering Proceeds to address contingencies and operating requirements of the Company

including loans made to USA Barcelona Realty Advisors ("USA BRA") for its organization period requirements and for the purchase, as applicable, of USA BR Class A Common stock."

Definition of working capital

Capital actively turned over in or available for use in the course of business activity:

a : the excess of current assets over current liabilities

b : all capital of a business except that invested in capital assets

cited from - Merriam-Webster Dictionary

WC = Current assets – Current liabilities

In an early stage/pre-revenue company, in that there is no revenue, working capital is used to pay all company expenses and capital expenditures. In the October 2012 through September 2014 era, the Company was clearly an early stage company. One normal and ordinary business expense is debt service.

The Company was, at the time, an early stage company and all of its business needs were meet by its 12-6-12 and 10-5-10 offerings and borrowings, including borrowings from its founders. In this regard, Mr. Harkins and Mr. Kerrigan collectively have over $500,000 of their personal cash loaned to the Company and Mr. Harkins and Mr. Simmons have $100,000 each in capital contributed in lieu of taking payment for fees earned. Mr. Harkins has an additional 20 months of 100% applied and uncompensated time amounting to well in excess of 4500 hours spent preparing the Company to commence business in October 2012.

There's no grousing here. Such commitment is standard fare for those starting companies. This, along with early stage outside members and lenders are what new companies are about. It's what's required. There would be no "emerged" companies if that were not the case. Investors know this. That's exactly why individuals and companies invest in startups. There is a Big Potential Risk but there also a Big Potential Return.

80. None

81. None

H. May 2014 PPM

82. The Company's intention was to make this offering through Broker Dealers. The Company had no intention to directly place this offering with its prior investors, acquaintances or those introduced to it. There would be a substantial minimum offering requirement. This was a large offering amount required a broad sales capability. This was intended to be marketed by broker dealers and RIAs. There to, several points of fact:

- No such offering document was ever finalized
- No offerings were made

  Refer to par. 89; no offering was made to Andrade. By his own testimony, while in Mr. Harkins' office, after he has signed a $5,000 loan document with the Company and delivered his check to Mr. Harkins, in leaving, he saw a draft of the Barcelona Land Company ppm and asked if he could have a copy so as to better understand the Company's future plans. He testified it was not provided to him in the sense of Mr. Harkins making an investment offering to him.
- No sales were made

83. There was an evolution of versions or drafts of the "Barcelona Land Company" offering document with the earliest rendition dated in May 2014 and the last edited edition dated in January 2015, some 6 months after the Company closed its Scottsdale office. Indeed, the Company had every intention of continuing in business.

The numbers cited in the Division's par 82 changed and changed substantially over the period of the drafting of the Barcelona Land Company offering document drafts.

84. The business plan of Barcelona Land Company was and remains considerably more far reaching that presented in the Division's statement in its par 84. However, for all known purposes of this brief, there is no need to expand on the topic. No offering was made and no sales were made.

'I. June 2014 Offering and Investor

85. To be clear, one promissory note was executed with one pre-existing investor, Richard Andrade, in the amount of $5,000. While an extreme extrapolation of the facts and circumstances could lead to this be called an "offering", as in, a securities offering, that is far from what it was.

86. I take no exception to the Division's representations except to emphasis that the Company was asking its stakeholders to provide some much needed capital to carry it for what was thought, at that time, to be only a matter of a week. Again, the Division chooses to paint this as a fully trumped up investment offering and nothing could be further from the fact of the matter.

The Company was willing to add the inducement of a grant of member units to any existing Company investor who would provide all or part of the then needed operating capital. Each person contacted regarding the Company's quest for a short-term loan

already held member units in the Company by the nature of their 12-6-12 or 10-5-10 investment.

87. None

88. Mr. Harkins does not recall if Mr. Simmons attended the meeting he had with Andrade in the Company office.

89. Mr. Harkins has no recollection of discussing his past business experience in this meeting and seriously doubts that it occurred. The discussion was of the serious need of capital and the "why's" this had arose. There was no fluffing of the Company's cash need or embellishment as to what Mr. Harkins business experience would do to mitigate the immediate need for capital. This statement by the Division appears to be something of its own concoction, or coaching of Andrade in preparation for his testimony.

In fact, in the ALJ Hearing, when Charles Berry asked Mr. Kitchin directly if the Division's attorneys had coached their witnesses, Mr. Kitchin admitted that the Division had coached its witnesses and prepared them with the questions they would be asked during their ALF Hearing testimony. Mr. Kitchin added that the Division did not coach them as to how to answer the questions.

Mr. Harkins had no personal meeting or other communication with Andrade prior to his meeting to discuss Andrade's $5,000 loan. While Mr. Harkins does not feel Andrade would give perjurous testimony, if the Division's reps in par 89 are supposed to be those of Andrade, Mr. Harkins' states that the Division made it up, Andrade did give false testimony, or, some combination of those two.

Mr. Harkins has no recollection of Mr. Simmons being at the June 15, 2014 meeting with Andrade.

90. Mr. Harkins has no idea what Andrade was thinking.

91. None

J. Restitution

92. The Division employs the number of $1,405,000 as the amount invested in Barcelona Advisors securities. Mr. Harkins summarizes what he has provided in his brief to this point, with the intent to provide clarity, how much capital falls in the applicable categories. The following table is provided for this reason.

	Total	Offering Proceeds	Stand-Alone Transactions with Units or Rights	Stand-Alone Transactions without Units or Rights
12-6-12	$670,000	$670,000	0	0
10-5-10	150,000	150,000	0	0
88	0	0	0	0
Stand-Alone Transactions with Units or Rights	500,000	0	$500,000	0
Stand-Alone Transactions without Units or Rights	75,000	0	0	$75,000
Total Capital	$1,395,000	$820,000	$500,000	$75,000

The Division introduces restitution with no statement of what it means to them. Mr. Harkins has previously attempted to negotiate a settlement of this matter in a fashion that would give the investors in the Company a realistic opportunity to establish a means of capital recovery and gain.

Mr. Harkins is desirous of entering into a letter of understanding with the Company's investors and allow the Division a non-prosecutorial role. The Division is well aware that Mr. Harkins intends to name each investors as a beneficial interest holder in whatever entity he is an owner in for each and every enterprise that he creates or joins going forward.

Mr. Harkins is not willing to agree to any form of Restitution Order or Civil Penalty pertaining to this matter. Mr. Harkins expects the final dissolution of this matter will not find the Division is entitled to any such judgement or award against Mr. Harkins.

K. 8-8 Offering Integration

93. None

94. None

95. None

96. None

97. None

98. As of the time the Company determined to termination the "88" offering, there had been no offers made and no sales made. At that time, Mr. Kerrigan has other clients whom he felt were qualified and ready to acquire interests in the 12-6-12 Offering.

The Company accepted three additional accredited investors in the second amended 12-6-12 Offering from September 2013 through November 2013.

The Division stops here in dealing with the matter of integration its Amended PH.B. Mr. Harkins will respond to The Integration matter in the order in which the Division presents it, that being par. 205.

L. Patrick McDonough

99. Mr. McDonough purported in his initial interview with the Company to have broad access to accredited investors and had a desire to introduce select individual to the Company's various investments. That was the primary premise on which he was hired. He was made a member of the Company and given a title of Vice President so as he could offer Company securities as a principal and not be required to become licensed as a securities representation. The Company informed him that it would be moving forward to establish its own broker dealer and that he would be taking the appropriate securities course to obtain a securities representative license.

100. The Division's statement is its own words and does not reflect the facts. Mr. Harkins is well versed in the requirements of a Company making its own offerings and the exact nature of how such offerings are to be conducted by principal of the Company.

Mr. Harkins did not tell Mr. McDonough to bring the Company's offerings to "anyone interested in investing". In fact, Mr. McDonough and the Executive Members of the Company were told by Mr. Harkins to review with him any person being considered a candidate for being presented a Company offering. There was a specific process in place for determining if an offering was to be made to any person.

In McDonough's case, he was instructed to include Mr. Harkins in any preliminary discussion or meeting he had with a prospective investor.

The matter of to whom and how offerings were made was discussed on an ongoing basis in specific meetings between Mr. Harkins and Mr. McDonough and in general team meetings where all members and employees were present.

There was an absolute prohibition against anyone person other than an officer of the Company discussing investment in the Company with anyone.

101. If Mr. McDonough felt pressured to assist in raising capital under the Company's offerings it needs to be stated that was the primary reason he was hired.

Under testimony and cross examination of Mr. McDonough at the ALJ Hearing. Mr. Harkins was clear that Mr. McDonough had two primary roles with the Company and both pertained to assisting in capitalizing the Company through its offerings. One role was dealing with persons he knew to be qualified investors and the other was working with Mr. Harkins to develop a broker dealer network to handle the company's real estate (not working capital) offerings.

102. Mr. McDonough was aware that at the time he was hired the Company was new and remained thinly capitalized. He did hear quite frequently that his job was to make introductions to qualified investors and not to do it alone. Involve Mr. Harkins. What he never got a grasp of was that he was offered employment and he accepted to assist in solving that need.

The Division is making some case around Mr. McDonough that Mr. Harkins does not grasp. In that Mr. McDonough is the person that caused the Division to launch its inquiry into the Company and its business practices, perhaps the Division feels compelled to attempt to prop Mr. McDonough up in some manner that serves the Division's purposes. That remains a mystery to Mr. Harkins.

M. Mr. Harkins

103. Mr. Harkins attested in the ALJ Hearing that when this investigation began and for some months thereafter he had no concept of what a Control Person was and

received advise from respected counsel to deny such. As the process unfolded and Mr. Harkins became more attuned to the statutory meaning of Control Person, he concluded that not only was he one but he was the only one in the Company.

Further, the Division characterizes a communication Mr. Harkins sent to the other Executive Members in regards to a plan to "save the company". In that the employees of the Division responsible for crafting that language are safely assured their office will be there tomorrow and their paycheck will arrive on a timely basis for the period in which the Division deems it worthy to maintain them as employees, they clearly have no concept of the following: "a private company is saving itself every moment of every hour of every day and it does so by the action of its executives, employees and outside agents". It is like owning and running a dairy farm, "it's not sometimes, it's all the time".

The Division has elected to take on a very young emerging early stage company and challenges its doings as thought it was some evil empire looking to take advantage of unsuspecting investors and abuse, at least one McDonough, its employees.

This is yet one more subtle and not very cleverly disguised evidence of the Division wanting to announce it has no connectivity to the world of business nor does it care to adopt any such understanding.

104. AVC Failure – (refer to Preamble) Mr. Harkins has testified in regards to AVC that is was a company formed by two very large companies, Kitchell Corporation and Coldwell Banker Success Realty and a company Mr. Harkins had started with another person, that company being named Desert Fox Associates.

Mr. Harkins devised a plan that evolved around developing upscale medium density villa villages that would be located on prime well located land parcels situated in central Arizona communities that appealed to an upper income empty nesters.

From late 2009 through mid- 2013, Mr. Harkins went about identifying several land parcels that would fit this development plan and introducing himself and his plans to the companies he selected to be his construction and marketing/sales partners and investment banker.

By late 2003, the coalition of Kitchell's custom home division, Coldwell Banker's Developer Marketing Services and Desert Fox had agreed on an ownership structure for a holding company to be known as Arizona Village Communities ("AVC").

Mr. Harkins was instrumental in arranging for land acquisition and development financing from a major banking group and arranged for the AVC working and acquisition capital to be raised through the investment banking community.

AVC later created the operating company that would execute the business plan and it was named Arizona Village Communities Operating Company ("AVC OpCo"). A board of directors comprised on four outside directors plus the president of Kitchell Custom Homes, Robert McCord the majority owner of Coldwell Banker Success Realty and Mr. Harkins were to be the inside directors. At or about this time, McCord determined that he had some health related issues that would likely prevent him from giving this new upstart the attention required, and sked that he be replaced as an inside director. And, he was.

From 2014 up until the economic collapse of the national and international economy in late 2007, AVC was executing its plan on time and ion schedule. At that time it owned three fully approved and planned residential land tracts with one well under way

in the construction mode. The other three were fully approved and well into architectural construction plans.

AVC had been the applicant with the Arizona Land Department since mid-2005 on a 202 acre parcel in Desert Ridge. This parcel was fully planned with preliminary engineering and a land parcel use plan. The plan called for 680 homes to be built in eight subdivisions. In the early Fall of 2007, some five months before the auction date on the DR 202 land parcel, Mr. Harkins received preliminary approval from AVC's banking group for over 400 million dollars of financing for the land purchase, off-site and on-site development and model and spec homes for each of the eight land parcels.

At that time, with the other four developments already under AVC's ownership through affiliated controlled entities, AVC had over 500 million dollars of development in the ground or ready to go plus the DR 202 project coming up for auction in the Spring 2008.

Then, came October 2007. The entire capital markets structure in the US froze which included both institutional and individual investors. At this point in time, AVC had underway a $50 million dollar intra-state public offering which was some five months into the selling period being sold through its investment bankers. Additionally, it had successfully conducted several private placements for its affiliated development companies.

It did not take the directors of AVC long to react to the shutdown of capital markets. Knowing the dependency of AVC on the constant flow of capital to its numerous development needs, the board instructed Mr. Harkins to retain counsel and undertake to protect the company's affiliated entities properties.

At that time, Mr. Harkins company Desert Fox Associates owned 1/3 of AVC and Mr. Harkins owned ½ of Desert Fox, giving him 16% ownership of AVC. Clearly, as the Division has asserted for 20 months, AVC was not Mr. Harkins company and was not controlled by Mr. Harkins in any sense of the word. Yet, the Division wants to paint the picture that Mr. Harkins deceived the Company's investors by not telling them any more about AVC than his role in the company and that in 2009 it closed.

Keep in mind, most, if not all, of the eight investors in the 12-6-12 Offering have a copy, not of Exhibit GTS-2, which is a Preliminary version of Barcelona Realty's April 10, 2013 Offering, but of the effective Offering Memorandum of the same date. Harkins' bio therein, is as follows:

Richard Harkins – President and Director, and will serve on the Executive Committee. Through his leadership, Barcelona has been fostered from a concept to an operating company with a primary focus on acquiring and owning properties. Mr. Harkins focus is on executive management, developing business relationships with major franchisees of Marriott, Hilton and other top brand properties and the capital needs of the Company. Mr. Harkins' business career began with 13 years in equity finance, land acquisition and executive management with Gulf Oil Real Estate Development Corporation and Cardinal Industries. Since 1987, he has been involved in the real estate industry in the development of high-end daily fee golf courses, and over the period 2002 through mid-2009 in the creation and executive management of Arizona Village Communities Operating Company, Inc. ("AVC"), a land development, luxury community developer and real estate investment company, which ceased operations in 2009. Mr. Harkins has been involved as the responsible executive in the acquisition of sites and the financing of over 170 limited service hotels, over 550 apartment communities, several golf properties and the assembly of over $2.5 billion dollars of public and private equity and debt capital. Mr. Harkins is a University of Alabama graduate with a degree in accounting. He served over nine years of active duty in the US Navy with specialties in radar, and related electronic warfare systems. He is proficient in the design and implementation of organization and financial structures for complex organizations, including REITs. He is a founder of the various entities that comprise USA Barcelona Realty Trust and Barcelona Administration Company and has been active on a full-time basis since July 2009 in bringing the initial Barcelona fund (USA Barcelona Realty Trust) to fruition.

What's my point? The Division surely was aware of Barcelona Realty's April 10, 2013 Offering memorandum. My gosh. It's a $70,000,000 Offering that was being taken forward by an Arizona based company. The Division did not notify Barcelona Realty or the Company of one single objection that the Division had to that document, which includes the above Harkins bio. Yet, now, they come after the Company for its $895,000 of securities

sales in Arizona, to Arizona accredited investors, nine out of ten who are acquaintances or clients of the Executive Members of the Company.

Mr. Harkins asserts the Division is far-over reaching in its efforts to defame Mr. Harkins. The Division is exercising a misguided effort to cast this AVC disclosure business as a fatal flaw in the Company's offerings and Mr. Harkins credibility is being radically abused.

The Division's investigators left some persons it interviewed believing Mr. Harkins had caused some major business (AVC) to fail, that AVC filed bankruptcy and so did Mr. Harkins. Neither AVC nor Mr. Harkins did or have filed bankruptcy.

Mr. Harkins maintains that the demise of AVC was no different than so many other prospering companies of that era that were unraveled by the actions of the US government in its conducting of banking and economic policy starting several years before the ultimate collapse in 2007.

Mr. Harkins has testified to all of this to which the Division's attorney Burgess asserted something, to the effect, Mr. Harkins was alibiing about his business failure. Nothing could be further from the truth. But, the Division could care less about the truth. It wants a "WIN".

Finally, the 12-6-12 and 10-5-10 PPMs contain language inviting investors and prospective investors to meet with management and ask any questions they would like answered. If each investor read the PPM and understood everything they read, which each attested they did, Harkins and the other Respondents were readily available to meet and

discuss. The internet had considerable information regarding AVC and Harkins. There is no valid disclosure issue here. It's part of what the Division threw on the wall.

AVC was in all reality a remarkable success story, up to the point of being shattered by the failure of federal government policy. The US economy's house of cards fell in, taking AVC and most of the US economy with it. Harkins cannot be faulted in the slightest for AVC's failure. He was a player in a play that got shut down as a result of US federal government politics and cumulative bad economic policy.

For anyone that reads Mr. Harkins' brief (this brief), he wants you to know he is very proud of what he and others achieved at AVC. That period of time gave him more knowledge with which to take the Company forward from its incubated state than any successes he has shared at any other point in his life.

105. Mr. Meka - Why didn't the Division call Mr. Meka as one of their witnesses? They interviewed him. Here's likely why!

Mr. Meka's testimony would have included a summary of the charges which resulted in his felony conviction. It would have been disclosed that those charges in no way (whether true or false) impaired his ability to be a productive member of the Barcelona office administration team. Further, his conviction acknowledged that he did not know what the owners of the company that employed him were doing (which is where the securities offenses occurred, with them), rather, given his experience in business, no matter what the owners did to conceal their activities, Mr. Meka should have known.

Mr. Meka's employment by the Company had absolutely no negative impact on any investor. Bad things happen to good people and good things happen to bad people. Mr. Meka is a good people.

106. April 2015 Harkins Letter to Investors - The Mr. Harkins letter to which the Division alludes did not speak of failure. Difficulty for certain. The Division raises another point here that if they played it out, would not work in their favor.

Why didn't they call Allen Weintraub as a Division witness? I'll tell you why! Under the assumption Mr. Weintraub would not have perjured himself, he would have synced with the testimony of Mr. Harkins that his (Mr. Weintraub's) lack of performance in raising the capital he had assured the company would be raised was potentially devastating to the Company and forced the Company to implement another component of its business plan, development rather than acquisition. (see The Collision Principal, page 22)

N. Kerrigan

107. The Company cannot monitor the activities of one of its principals when they are away from the Company. The assertion that the Company had no guidelines as to what any of its principals had to say to persons about Company offerings is wrong.

As for Mr. Kerrigan, every person Mr. Harkins is aware of, that Mr. Kerrigan met with regarding a Company investment, was either an existing client or a personal acquaintance who was not a client.

108. Mr. Kerrigan may not have felt raising capital for the Company was his responsibility, based on his definition of responsibility. He certainly didn't feel it was his sole responsibility. When Mr. Weintraub defaulted on his commitment and assurance to the Company, unquestionably a burden to fill the void fell on Mr. Kerrigan. As a principal of the Company, he did what we all did, took responsibility to do what he could. Why does the Division choose to paint a black hat on Mr. Kerrigan for that? Issues dealing with his

duel activities with the Company and his broker dealer are a matter outside the scope of this brief. Those are Mr. Kerrigan's issues

109. None

110. None

111. The payment of insider loans to and from the Company are matters worked out between the company and the individual insiders. Mr. Kerrigan was in full agreement as to how his loans were treated.

112. The Division is half correct. Mr. Harkins discovered that the Hotel Land Company PPM (the document he reviewed during the lunch break at his EUO) prohibited Member Loans from being repaid. Period.

Mr. Harkins was well aware that the language that existed in the Operating Agreement in the 12-6-12 Offering stipulated very limiting provision for repayment of Member Loans. In the time frame the Barcelona Land Company offering document and exhibits were being drafted, Mr. Harkins had worked on an Operating Agreement that incorporated some less limiting provisions under which Member Loans could be repaid and which was to be incorporated in the Operating Agreement exhibit in the Barcelona Land Company PPM.

Mr. Harkins was surprised to see it was not in the document the Division had in its possession, which likely was provided by Andrade, as it was marked on the from cover "Rich". The Barcelona Land Company PPM that Andrade was given, at his request, was a mid-life draft of the documents and Mr. Harkins expected it to contain the amended language pertaining to Member Loans.

113. The main point here and as testimony reflects is that Mr. Kerrigan did not receive any payment on his notes. Mr. Harkins has testified to that effect and as to why. The Company was prohibited from making payment on Member Loans except from surplus cash flow and the Company was not near that point in its early stage.

114. None

115. Correct to the best of my knowledge.

116. None

O. Mr. Simmons

117-134 – Not Applicable to Mr. Harkins".

P. Mr. Orr

135-143 - Not Applicable to Mr. Harkins".

Q. Omissions

144. None

145 & 146. AVC Failure - see 104

147, 148 & 149. Mr. Meka Conviction - See 105

150 & 151. Mr. Kerrigan Debts - See 107 & 108

152 & 153. Plan B Business Plan – (see Prelude) As for the Company reverting to "Plan B", here is where the Division simply losses track of "who's on first", so to speak.

The Company is the advisor to USA Barcelona Realty. ("USA BR"). It is the USA BR business plan that gets reshuffled based on Mr. Weintraub not performing, the

Company's business plan. The Company stayed true to the course of managing the affairs of USA BR, as its advisor.

Mr. Harkins certainly led the Company in advising USA BR to move to another sector of it business plan when it became clear that Mr. Weintraub was not going to perform on the $70,000,000 raise for USA BR. USA BR is not the Company. The Division is flat lost on this matter.

In the Spring/summer of 2014, USA BR affiliate Barcelona Land Company is focused on a plan that will acquire and entitle land that will lead other affiliates of USA BR building hotels. What is the Division's intent here? The 12-6-12 Offering was terminated for a set of reasons that had nothing to do with Barcelona Land Company or USA BR.

Who is it that the Division would like someone to believe was harmed? Who was it the Company were obligated to so inform, as to USA BR's plans. The Company was executing its business plan, that being, advise USA BR.

Even further off base is the Division as it demonstrates its complete lack of understanding of the Company's business plan by referring to the Barcelona Land Company plan to develop new hotels. No Division! The Barcelona Land Company business plan was to acquire and entitle land and sale said land parcels to affiliates and non-affiliate that would construct hotels thereon.

Here's the operative question: How can the Division attack something or someone(s) they don't understand? They don't have the pieces and the players in the correct positions or performing the correct duties.

Page 5 of the 12-6-12 Offering states the following:

"We do not promise to update forward-looking information to reflect actual results or changes in assumptions, to release publicly any revisions to any forward-looking statements, to report events or circumstances after the date of the Memorandum or to report the occurrence of unanticipated events, or other factors that could affect those statements."

Not only did we tell potential investors in the Company what we were doing as things changed, we made an entirely different offering in order to do so. With that brought to light, the Division's charge is the Company has one part of its plan presented to the 12-6-12 Offering investors and to in the 10-5-10 Offering another plan is presented. That is not the case. The Company has one business plan with several components. Some parts are interchangeable. That's called flexibility.

Here's the operative question: How can (and why would) the Division attack something they don't understand? They didn't understand the Company and its business plan when they stated this journey and they don't today. Or, just maybe they do but they're so far into this thing they started that they must come out with something that makes it look to the Commission that they didn't waste a lot of time and financial resources.

Someone in the Division, or higher, must be demanding they get some WIN out of this or else. Mr. Harkins will close, later, with his proposal for the "else". Not pretty.

154. Failure to pay Mr. Kerrigan Notes – Mr. Kerrigan was a Company executive and made member loan to the Company. Mr. Harkins (not mentioned by the Division) also made member loans. Well in excess of $200,000 of member loans. Mr. Orr made member loans. Mr. Harkins and Mr. Simmons both contributed capital in lieu of payments due them. No mention by the Division.

Member Loans were not repaid for two reasons. First, the Company was not in a surplus working capital position to do so. Second, the 12-6-12 and 10-5-10 offerings incorporated editions of the Company Operating Agreement that required Member Loan to be repaid only from surplus working capital. At the stage the Company was at in 2013/2104, it was barred from repayment of Member Loans. Mr. Harkins has testified to that extend simple saying there was no workable provision that allowed such.

Mr. Harkins was well aware that the language that existed in the Operating Agreement in the 12-6-12 Offering made a limiting provision for repayment of Member Loans only from Net Cash Flow. The Company would be well over a year from having Net Cash Flow. In the time frame the Barcelona Land Company offering document and exhibits were being drafted, Mr. Harkins had worked on an Operating Agreement that incorporated some less limiting provisions for Member Loans to be repaid and which was to be incorporated in the Operating Agreement exhibit in the Barcelona Land Company PPM.

Mr. Harkins was surprised to see it was not in the document the Division had in its possession, which likely was provided by Andrade, as it was marked on the front cover "Rich". The Barcelona Land Company PPM that Andrade was given, at his request, was a mid-life draft of the documents and Mr. Harkins expected it to contain the amended language pertaining to Member Loans.

From the Company' Operating Agreement in effect at the time of the 12-6-12 Offering and included in the 12-6-12 Offering as Exhibit B.

1.5 Executive Member Loans. If the Executive Committee determines that the business of the Company requires funds, in addition to the capital contributed by the Members, the Company may borrow money from the Executive

Members, and the Executive Members may make one or more loans to the Company to enable the Company to meet its obligations ("Executive Member Loans"). The Company shall repay Executive Member Loans from the Net Cash Flow of the Company as otherwise allowed under this Agreement. Executive Member Loans shall be repaid in chronological order of their respective origination dates beginning with the earliest origination date. The Executive Member Loans will bear an annualized 12% rate of interest.

The main point here and as testimony reflects is that Mr. Kerrigan did not receive any payment on his notes. Mr. Harkins has testified to that effect and as to why.

155. There was no reason what so ever to provide disclosure of events that didn't occur, even more especially, events that would not occur.

156 & 157. Promised Use of Funds to repay Mr. Kerrigan – Among Mr. Kerrigan's loans to the Company was a consolidate note that rolled up three of his prior loans. The note face amount is $70,000. The subject note stated:

> "Principal and any earned and unpaid interest shall be paid from proceeds received by Maker (the Company) from new investors in the Maker's Series A 12-6-12 Note Offering."

Mr. Kerrigan asked for that language to be incorporated in the Note because he planned to bring in $500,000 in new capital shortly thereafter. Mr. Harkins informed Mr. Kerrigan that such repayment couldn't be made unless the Company had the funds to do so in compliance with its Operating Agreements' restrictions on paying Member Loans. This rollup note was created on October 1, 2013.

At that time, the Company expected a $1,500,000 payment from USA Barcelona Realty ("Realty") which was due upon the escrow beak of Realty's $70,000,000 offering.

This would have given the Company sufficient Net Cash Flow from which to repay Mr. Kerrigan's $70,000 note.

Otherwise, any funds that came in from the 12-6-12 Offering would not have been and were not, used to repay the Mr. Kerrigan note. There was absolutely no fiduciary reason for making this disclosure.

A Turning Point Matter

Mr. Harkins understands the Division has at best limited knowledge of (most likely none because they have never inquired) the Realty offering, the reasons for it and its terms and conditions as related to payments due its Advisor, the Company. That is of the Division's own doing as it elected to skip over the most important reason for commencing operations of the Company in October 2012. That being, Mr. Weintraub had committed to place the $70,000,000 Realty offering.

158 & 159. Delayed 12-6-12 Interest Payments – The Company delayed this payment after receiving consent of the investors. The payment was made as agreed. The delay was a minimal amount of time. The investors even received a little bonus.

Here again, the Division is reaching for a management decision that had some vile element to it. Interest payment deferral is not, by any means, uncommon in an early stage enterprise, or older ones for that matter. What's important is the Company was managing its affairs in a proactive manner.

The deferral helped the Company manage cash and the request for the deferral was approved by the investors. This is an event that did not affect any future investor in any negative way. This is not an event requiring disclosure. My Lord! A Company would need

a dedicated writer to publish a litany of amendments to an open offering in order to describe its day to day management activities. Another over-reach by the Division.

Did the Division mention the Company paid a little bonus interest to the investors in appreciation of their approval? Of course not!

160, 161 & 162. Use of 10-5-10 Proceeds to pay 12-6-12 Investors – Offering proceeds derived from a Company offering are to be used by the Company or organizational stage expenses and initial stage expenses. Citing from the front cover:

"This Confidential Private Placement Offerings Memorandum ("Offering") is being made to provide USA Barcelona Realty Advisors, LLC. ("USA BRA", "Company", "us", "we") with capital for the organization stage and initial expenses of USA Barcelona Hotel Company I, Inc. ("USA BR") ."

And from the 10-5-10 PPM, page 2:

(3) Working Capital will be established from Offering Proceeds to address contingencies and operating requirements of the Company including loans made to USA HC-I for its organization period requirements.

Payment of the Company's expenses, including interest payments to its investors, is a legitimate use of Company funds. The payment of interest to early investors ion the Company's initial offering was made from funds received from subsequent investors in the offering and from member loans. Those are the only sources of funds available to the Company.

Interest payments to Company investors is not "ear marked" to come from only non-investor funds. Investors may receive interest payments from their own funds, from other investors funds, from other sources of funds available to the Company.

All sources of funds to a startup Company fall into the classification of "working capital". The Company pays its expenses from working capital.

There is no disclosure required other to say the Company will operate on its working capital. Another over-reach by the Division.

163 & 164. Misrepresentation with Chanen Construction – Why didn't the Division call Steve Betts as a witness in any matter dealing with Chanen?

Collaborating Steve Chanen's testimony with the Steve Betts, president of Chanen Development Company, who was the person that introduced the Company to Steve Chanen, attended every joint meeting of the companies and would revealed that:

- There certainly was the framework of an agreement between the companies and the Companies intended to memorialize their agreements in a contractual form.
- Stave Chanen had personally approved the content of Chanen Construction Company disclosure as incorporated in the Barcelona Land Company draft PPM
- Confirmed that Steve Chanen asked Mr. Harkins, during a joint meeting, what was most important to him in a relationship with Chanen:
  - Capital from Chanen,
  - Chanen's abilities as a contractor or
  - Chanen Construction Company's background to be employed in the Barcelona PPM to enhance the capability of the Barcelona/Chanen engagement to assure of a reliable hotel construction result.

Mr. Harkins answered that incorporating Chanen Construction's legacy in the Barcelona Land Company PPM was the most important. More than one version of the Company prepared version of Chanen Construction Company's legacy was prepared and submitted to Steve Chanen for his approval (likely three). He approved what appears in the May 10, 2014 and ensuing versions of the Barcelona Land Company PPM.

Under oath, Steve Chanen simply did not give creditable testimony. And to what point? In that no offering or sale was made of securities of Barcelona Land Company, the matter is moot other than a hit on Mr. Harkins' creditability resulting from Steve Chanen's testimony.

At the conclusion of Steve Chanen's testimony, with Mr. Harkins conducting cross examination, Mr. Harkins elected to let be. It served no purpose for anyone to push on. To have done so, would have required calling Steve Betts as a witness. That would have opened a feisty can of worms between Steve Chanen and Steve Betts.

Mr. Harkins states that, had he known Steve Chanen's testimony would be flawed as it was, he would have had no other choice than to subpoena Steve Betts as a witness. Mr. Harkins felt totally blind-sided by Steve Chanen's unexpected and highly questionable testimony.

Mr. Harkins absorbed that hit and moved on. Under the Division's Amended PHB, par 210, they continue to claim that an offering of the Barcelona Hotel Land Company was made. They don't hold any high ground here. The only party they has identified to have possessed an offering is Andrade and he testifies he did not request the offering as an investment consideration rather than he wanted to know more about the Company's future plans. That is his testimony.

There was no misrepresentation of Chanen and in the no offering or sale was made, it had no effect on any investor. As to Andrade, he had signed his loan agreement and delivered his check before he ever laid eyes on the Barcelona Land Company PPM.

166 & 167. Conforming the Notice to the Evidence – Upon the Division's motion, Mr. Simmons objected and ALJ Preny took it under advisement with no follow-on ruling. It's a none event.

178 & 179. Mr. Harkins Credibility – see par 103.

185. Notes are securities – Company notes bundled with a member interest in the Company, as was the case with the Company's 12-6-12 and 105-10 Offerings are securities. Loans taken by the company from a single borrower in a one-off transaction evidenced by a promissory note (Stand-Alone Transactions), with or without accompanying interests or rights, in certain cases, are not securities. (see par. 20)

186 & 187. Notes and the Act's anti-fraud provisions – The Division cites MacCollum v Pekinson, 185 Ariz, 187 (Ct.App.1996).

This case has to do with a Private Placement offering sold to numerous investors wherein investment interests were offered in a single promissory note.

The case does not compare with the matters at hand regarding the Company's Stand-Alone Transactions. On seven occasion, the Company negotiated one note with one investor. Of the seven separate note borrowings involved, (i) Burleson in one case for one note, (ii) between the Company and Mr. Eaves in 5 instances for 5 different notes at five different times, with each note possessing unique features and (iii) Andrade in one case for one note.

The Division has cited the "Reves" test for determining if a debt instrument is a security. It should be noted that the Reves test is used to determine if a debt instrument is a security for Anti-Fraud purposes, not for purpose of determination of the question is the

note otherwise deemed a security or for matters pertaining to the integration of an issuer's security offerings.

Before addressing the "Reves" test, attention needs to be brought to the Arizona statute A.R.S.§44-180(26) and citing therefrom:

Although the statutory definition of a security specifically includes any "note," **that term is not defined by A.R.S. § 44-1801(26) or any other provision of the Arizona Securities Act.** Thus, it "has been left to the courts to decide which of the myriad of financial transactions come within the coverage of the securities fraud statute," and the courts "are not bound by legal formalisms, but instead take account of the economics of the transactions under investigation." MacCollum, 185 Ariz. at 186, 913 P.2d at 1104.

Mr. Harkins' Rebuttal to the Division's claims under par's 186 & 187 follows:

Regarding the "Reves" test as used for Anti-Fraud Purposes: The Reves Test has four parts, listed in the following as Parts A, B, C & D.

A. Parties' motivations to earn profits.

Reves, 494 U.S. at 66. For purposes of the Reves test, profit means "a valuable return on an investment," which definitely includes interest. Id. at 68 n.4. If, however, "the note is exchanged to facilitate the purchase and sale of a minor asset or consumer good, to correct for the seller's cash-flow difficulties, or to advance some other commercial or consumer purpose . . . the note is less sensibly described as a 'security.' Id. at 66.

Mr. Harkins > The Company's seven Stand-Alone Transactions were offered to correct the company's cash-flow problem at the time of each such note transaction.

Conclusion - The Company's seven Stand-Alone Transactions securities pass Part A of the Reves Test.

B. Common trading plan of distribution.

"Offering and selling to a broad segment of the public is all that is required to establish the requisite 'common trading' in an instrument."

Where, however, the note is issued to a single individual, and is therefore not available for common trading and was probably only marketed to a limited number of investors, then the note resembles the Reves family of notes that courts have deemed not to be securities. MacCollum, 185 Ariz. at 187, 913 P.2d at 1105.

Mr. Harkins > The Company's seven Stand-Alone Transactions were not offered to multiple persons. They were offered based on the circumstances of the company's cash needs and were negotiated with a single lender, in seven separate cases.

Conclusion - The Company's seven Stand-Alone Transactions securities pass Part B of the Reves Test.

C. Public's reasonable expectations of the note.

This third factor basically depends on how the public would reasonably perceive the note. For instance, where the note is characterized as a security, such as in advertisement, promotional or offering materials, and there are no countervailing factors that would lead a reasonable person to question this characterization, then it would be reasonable for the public to take the seller at their word that the note is a security and does not closely resemble the Reves family of non-security notes.

Mr. Harkins > The Company's seven Stand-Alone Transactions were not advertised or offered to a multitude of person. They were offered based on the circumstances of the company's cash needs and were negotiated with the lender, in seven separate cases.

Conclusion - The Company's seven Stand-Alone Transactions securities pass Part C of the Reves Test.

D. Risk-reducing factors.

A risk-reducing factor may also exist when the note is collateralized, insured or otherwise secured through, for example, repayment or some sort of ownership interest.

Mr. Harkins evaluates the seven Stand-Alone Transactions issued by the Company as follows:

Three of the Company's Stand-Alone Transactions, in the collective face amount of $400,000, carried options or rights, giving them a second form of value. All three of these notes were transactions between the Company and Mr. Eaves. Each transaction was conducted so as to provide the Company with working capital to meet unexpected shortfalls. The three stand-alone transactions are detailed, as follows:

- $250,000 executed 7/12/2013 – Promissory Note and Class A Member Units and stipulates interest payment dates unique to any other notes issued by the Company
- $125,000 executed 12/30/13 and due 3/31/2013 (a 90 day note) at a rate of interest of 12% per annum, with an Option to purchase Class A Member Units of the Company.
- $125,000 executed 2/28/2014 and due 5/31/2014 (a 90 day note) at a rate of interest of 12% per annum, with an Option to purchase Class A Member Units of the Company.

Conclusion – These three Company Stand-Alone Transactions pass Part D of the Reves Test.

Four of the Company's Stand-Alone Transactions, in the face amount of $75,000, had no associated rights, options or attachments. Each transaction was conducted so as to provide the Company with working capital to meet unexpected shortfalls. The four stand-alone transactions total $75,000 in face amount of notes and are detailed, as follows:

- Burleson - $50,000 note executed 5/30/2013. The note stipulates four dates on which bearer may "put" the note to the Company for payment in full. The note carries no other attachments of units, rights or options.
- Mr. Eaves - $15,000 note executed 7/14/14 and due on 10/14/14 (a 90 day note) at a rate of interest of 8% per annum. The note carries no other attachments of units, rights or options.
- Mr. Eaves - $15,000 note executed 8/1/14 and due on 8/15/14 (a 15 day note) at a rate of interest of 10% per annum. The note carries no other attachments of units, rights or options.
- Andrade - $5,000 note executed 6/16/14 and due on 9/16/14 (a 90 day note) at a rate of interest of 10% per annum. The note carries a 3% bonus interest feature and the conditional allowance of extensions with no other attachments of units, rights or options.

Test D may make the Mr. Eaves and Burleson notes securities, for Anti-Fraud Purposes, and possibly the Andrade note falls in the same line of thinking.

Classic examples of **exempt notes** or **exempt transactions** include:

Notes secured by mortgages or deeds of trust on real estate or chattels (i.e., notes given in connection with the ordinary purchase of a house or automobile), some commercial paper, and **notes involved in private offerings**. Tober, 173 Ariz. at 213. But see MacCollum, 185 Ariz. at 185-86, 913 P.2d at 1103-04 (although promissory notes issued to fund real estate development were secured by junior deed of trust, trust deed was not part of original transaction, so not exempt under A.R.S. § 44-1843(A)(10)).

In short, when a note, presumed to be a security, is not on the list of non-security notes **and meets all four factors of the Reves test** — parties are motivated to earn profits through a transaction with a common trading plan of distribution and instrument that the public reasonably perceives as a security without any risk-

reducing factors—then the note is a security subject to Arizona's securities anti-fraud statute, A.R.S. § 44-1991.

Summary on: the Company's notes not being securities

Three and possibly four of the Company's Stand-Alone Transactions, totally $400,000, do not fail under any of the 4 Reves tests. Against the Reves Test, this qualifies the Company's notes as NOT being securities.

Further, all of the notes in question, the Stand-Alone Transactions, were sold in private, separate, negotiated transactions, each to meet an unexpected cash flow requirement of the Company and none were part of a planned series of note transactions.

Mr. Harkins has clearly established that $400,000 of the Company notes sold in stand-alone transactions are NOT securities while conceding that four notes, sold under Stand-Alone Transactions totaling $75,000, may be determined to be securities.

Mr. Harkins concedes that notes sold in the Company's 12-6-12 and 10-5-10 Offerings are more likely than not securities although they were not part of a trading plan of distribution and they were not a part of a public offering.

Mr. Harkins concedes the Company sold a combined $820,000 in securities through its 12-6-12 Offering ($670,000) and 10-5-10 Offering ($150,000), see summary chart on par 45, and as little as $70,000 or as much as $75,000 in four Stand-Alone Transaction transactions (see Preamble, pars 19, 20, 247, others) totaling $890,000 at minimums and $895,000 at the maximum in more likely than not securities sales.

Mr. Harkins states the facts are that the aforementioned note transactions occurred over a time frame of October 2012 through June 2014, a period of twenty (21) months.

There was no pre-conceived "plan of distribution" behind these seven Stand-Alone Transactions issued by the Company. In fact, they only occurred because Mr. Weintraub

did not deliver on the capital he was engaged by the Company to raise. That capital was planned. Had Mr. Weintraub performed, the Company would not have engaged in the aforementioned seven borrowings.

The Division states that the PPMs refer to "them" as securities. "Them" are the notes offered under the PPMs. "Them" does not include the above seven Stand-Alone Transactions than had nothing to do with the 12-6-12 or 10-5-10 offerings. $400,000 of the $475,000 received under the sale of Stand-Alone Transactions do not meet the Division's choice of a test of a note being a security under the Reves Test.

As to the Division's point number four (by reference only), it would have us believe that every note ever written is a security. As liberal as it is, the very Arizona statute cited by the Division, A.R.S. § 44-1801(26), does not support that.

Mr. Harkins states that all sales of securities made by the Company were entitled to exemption from registration and that there were no sales made through a public offering.

189. None

190. None, with the caveat that the scope here is limited to securities sold under the 12-6-12 and 10-5-10 offerings.

191. The division asserts that a "right" to acquire another financial instrument is in and of itself a security. The Division incorrectly cites ARS 44-180(26) which deals with notes and not rights or options associated with a note. A right or option is a separate financial instrument from the note and bestows in the holder an option or right to exercise or not exercise such right or option and in the event of the exercise of the right or option, the financial instrument obtained has an entirely different composition of interests than the features of the note. The decision for our LLC to use rights and options

to enhance lender benefits for lenders making Stand-Alone Transactions to the Company is soundly based. The Company's issued rights and options are not securities. Consider the following:

> Perfecting a security interest in an LLC ownership interest is not simple. Various factors complicate the process, including:
>
> • The LLC interest could be deemed to be either a "security" or a "general intangible" for UCC purposes;
> • The LLC interest could be either "certificated" or "uncertificated";
> • Changes to the operating agreement under which the LLC interest is issued could change the process for maintaining perfection of a security interest in the LLC interest.
>
> Another complication in the perfection process is that, unlike corporate stock, an equity ownership interest in a limited liability company by statute consists of two separate and distinct rights: (a) economic rights and (b) governance rights.
>
> If in a security agreement and/or in the collateral section of a UCC financing statement the lender describes the collateral simply as a "membership interest," "limited liability company interest," "member's interest" or the like, that description grants and perfects a security interest only in the member's economic rights. Under the Missouri LLC Act, "member's interest" means only "a member's share of the profits and losses of a limited liability company and the right to receive distributions of limited liability company assets." §347.010(12), R.S.Mo. The Delaware statute has an almost identical definition. §18-101(8), Delaware Limited Liability Company Act.
>
> Governance rights – the power to vote on or consent to or approve LLC actions – are separate from LLC membership economic rights. Under Section §47.081-1(3) R.S.Mo., an LLC's operating agreement governs ". . . the exercise or division of management or voting rights" among the LLC members. The Delaware LLC Act is similar. §18-302, entitled "Classes and Voting."
>
> Assuming that the lender's intent is to obtain and perfect a security interest in all rights arising out of an LLC membership interest, both economic rights and management rights, must be adequately described in the pledge or security agreement and adequately indicated in the UCC financing statement.
>
> Conclusion
>
> The UCC applies different perfection rules to general intangibles and securities.

> An LLC interest being pledged as collateral could fall into either category. The lender, with assistance of counsel, should first identify what the interest is and then decide whether the lender should require that the interest fall into a different UCC category. **In most cases, an LLC interest is a general intangible**. Once the lender has made that determination, issues of perfection and priority of the security interest can be addressed under the UCC Article 9 perfection rules.
> *Citation Spencer/Fane, Perfecting a security Interest in a Limited Liability Company Ownership Interest – Not a Simple Task; February 6, 2013.*
> *http://www.spencerfane.com/Perfecting-a-Security-Interest-in-a-Limited-Liability-Company-Ownership-Interest--Not-a-Simple-Task-02-06-2013/*

Mr. Harkins and the Company's legal counsel understand securities integration and the limitations that must be managed if the objective is to keep the Company's capital raise under $1,000,000 in a 12 month period. It is the Company, not the Division, that introduced the topic (of integration) at the ALJ Hearing.

The Division raising this "rights are securities" matter now, in its post ALJ Hearing Brief (i) does not make them right, and, they would not prevail if this single issue was fully litigated, but, (ii) it is an issue they have introduced for the first time, post ALJ Hearing, and it should be barred by the Hearing Division.

192. The division is wrong. The Company did not have securities salesmen. As cited on the front page of the both the 12-612 and 10-5-10 Offerings:

"The Investment Units are being offered by the President and Executive Members of the Company on a "best efforts" basis, who will receive no compensation related to their sale activities."

Under the Uniform Securities Act, an issuer selling its own securities is exempt from broker-dealer registration. An employee or other individual who represents an issuer is exempt if no commission or other remuneration is paid for soliciting investors. Mr. Harkins and Mr. Kerrigan were Executive Members of the Company. Wilkerson was a non-managing member of the Company. They account for all sales of securities made by the Company.

In the Company's instance, all sales of securities were made appropriately by an Officer, Executive Member or non-managing member of the company. In all cases no compensation was paid for such sales. Collectively, in the Company's 12-6-12 and 10-5-10 offerings, there were 10 sales totaling $890,000 made by 10 persons. All ten investors in the 12-6-12 and 10-5-10 Offerings were Arizona residents and accredited investors.

With one exception, the Company person making a sale of securities had a prior relationship with the investor. Accounting for the ten investors in the 12-6-12 and 10-5-10 Offerings:

- Kelly Bair, the sole exception, was introduced to Mr. Harkins by Jerry Austin, who was the insurance agent for both the Company and Ms. Bair. Mr. Austin was not compensated for the introduction or the sale. Mr. Harkins met with Bair on more than one occasion prior to her subscription to invest $20,000 in the 12-6-12. Bair personally represented to Mr. Harkins that she was an accredited investor and attested to the same in her subscription agreement for investment in the 12-6-12 Offering.
- Eight investors were close acquaintances of Mr. Kerrigan.
- One investor, Richard Andrade, was introduced to the Company by his financial advisor, Jim Wilkerson who immediately thereafter became a non-managing member of the Company. Andrade is an accredited investor and invested $50,000 in the 10-5-10 Offering.

Four additional sales of securities likely occurred in the form of Stand-Alone Transactions and totaled $75,000. The four Stand-Alone Transactions were negotiated with

three persons, each of whom was an investor in either the Company's 12-6-12 or 10-5-10 Offerings. They were all accredited investors. (see par. 45 for details)

193. None

194. Mr. Harkins made one offer and one sale, to Ms. Bair. All 10 sales made by the Company of member interests in its 12-6-12 and 10-5-10 Offerings were handled by officers of the Company.

Ms. Burleson - While Mr. Harkins domiciles with Ms. Burleson, she invested through Mr. Kerrigan, her financial advisor. Mr. Harkins and Burleson have had conversations about the Company since before it started in October 2012 and daily since. She may well know as much about the Company as Mr. Harkins does.

Ms. Carolin - Mr. Harkins had nothing to do with handling Carolin's first of two investments; and, as to her second investment, Mr. Harkins met with her as part of a meeting that Mr. Kerrigan setup but was late in attending. Carolin was Mr. Kerrigan's significant other at the time she invested.

Mr. Eaves – As discussed herein at pars 19 & 20, Mr. Eaves has two loans to the Company that occurred during a meetings of the Executive Members, of which he was one, wherein the cash needs of the Company were presented and discussed, all four Executive Committee Members had the opportunity to make a loan, and Mr. Eaves elected to do so. The Division is incorrect in stating that Mr. Harkins solicited Mr. Eaves loans.

As the SEC put it in the context of securities offering reform in 2005, "In general, as we recognized many years ago, ordinary factual business communications that an issuer regularly releases are not considered an offer of securities, such communications will not

be presumed to be offers, and whether they are offers will depend on the facts and circumstances.

The Division can't simply say something at one end of the pipe and have it come out the other end as FACT. There are massive circumstances surrounding every action taken by Harkins in dealing with persons that were to that became investors with the Company. The Hearing Division has no evidence presented at the ALJ Hearing that supports any of the Division's charges under as contained under paragraphs 192..194.

200. None

201. No offer or sale was made regarding Barcelona Land Company. See Preamble, par 82.

202 & 203. The Company made no public offering and its private offering were exempt from registration. There was no need or requirement for Mr. Harkins or the Company to register as a securities salesman or broker. See par 3.

204. Mr. Harkins has shown abundant and sufficient reason as to why the Company was entitled to exemption from registration of each of its 12-6-12, 88 and 10-5-10 offerings.

205. The Company advertised the 88 Offering which carried the correctly stated legend stating that it was exempt from registration under the A.R.S. 14-4-140 exemption. There were no offers, no sales and no meetings with any outside party pertaining to the 88 Offering. The few inquiries received by the Company wanted materials mailed to them and we did not do that as a matter of policy. No future investors in Company offerings and no future loans to the Company resulted from the advertisements of the 88 Offering.

If the Division wants to hand its hat on the Company making a public offering under the notion of the 8-8 Ads, then we must ask if the Division is asserting that the Company was floating a Red Herring (or a Pink Herring)?

A "red herring" or "red" is the colloquial term for a type of preliminary prospectus permitted by Section 10(b) of the Securities Act. A red herring can be used to make written offers but cannot be used to satisfy the prospectus delivery obligations that apply when orders are confirmed and securities are sold. This is because a red herring is a Section 10(b) prospectus but not a Section10(a) prospectus.

Securities Act Rule 430 provides that, in order to be a Section 10(b) prospectus, a red herring must include substantially all of the information required in a final prospectus, other than the final offering price and matters that depend on the offering price, such as offering proceeds and underwriting discounts. In addition, Regulation S-K Item 501(b)(3) requires a preliminary prospectus used in an IPO to contain a "bona fide estimate" of the price range.

The SEC Staff generally takes the position that a bona fide price range means a range no larger than $2 (for ranges below $10) or 20 percent of the high end of the Range (for maximum prices above $10). Regulation S- K Item 501(b)(10) specifies the required "subject to completion" legend that must appear on the front cover of any preliminary prospectus. This legend, printed in red ink, gives rise to the name red herring.

If a filed prospectus does not yet include a bona fide price range (in the case of an IPO) or otherwise does not comply with Rule 430, it is known in the trade as a "pink herring", a filed prospectus that is not quite a red because it does not yet meet the requirements of Section 10(b) and hence cannot be used to solicit customer orders.

Note, however, that a pink herring can be used in connection with permitted testing-the-waters activities. Not so fast. The advertisements couldn't have been that, they carried an A.R.S. 14-4-140 legend.

206. As stated in par.19, 20, 92, 247,others, a maximum of $75,000 of Stand-Alone Transactions may be deemed to be securities and counted toward any integration limits that may pertain.

The Division states that "the same type of consideration was received by all investors" and then comes forward with "usually" to name features we may or may not have included in an Offering or a Stand-Alone Transaction.

"Same Type" and "Usually" don't match up. This is yet again a half-hearted attempt on the Division's part at sweeping all Company transactions into a bucket the Division designed. The Division must believe that it will be held totally unaccounted to its misstatements and misdeeds while believing the Company and its executives will be punished for even the slightest imperfection in its execution of any of its business activities.

207. Mr. Harkins states that he has no opposition to the 12-6-12, 88 and 10-5-10 offerings being integrated and collectively examined for meeting the test of "not making a public offering" or for an examination of an integration matter.

On the integration matter, the Company sold less than $1,000,000 in any twelve month period in exempt securities, or in the entirety of its securities sale for that matter. Wherein, over the period October 2012 through June 2014, it sold a total of a minimum of $890,000 and a maximum of $895,000 of securities. (see par 19, 20, 92, 186..187, 247, others). The integration matter should be deemed a non-issue.

In the event it is deemed the Company missed some step in compliance with any exemption statutes (such as submitting a form and a fee), the Company did far better than making a good faith effort to meet any such requirement(s). Reasonableness, relevance and reality (in this case let's add prudence) are usual companions with a good faith effort.

If the Hearing Division feels the Division's stretch for a securities violation is a worthy consideration, should it not measure any omission on the Company's part against cause and effect on an investor(s)? It is likely that the 8-8 Offering is where the Division wants to hang its hat. As stated herein in par 98 and others, the 8-8 Offering:

- Carried an appropriate 44-4-140 legend
- No offering was made
- No sale was made
- No 8-8 Offering document or related information was provided to any person
- No Company business came from any contact made with any person that contacted the Company regarding the 8-8 Offering
- Had the Company elected to make an Offering, it would have prepared an appropriate offering memorandum, given notice top the Division and paid the requisite fee.
- The Division did not object to the 8-8 Offering ads for a period of over 12 months after the last public ad was posted.

A review of the offering memorandums in which the Company had a germane role in creating, includes:

- the 12-6-12 and 10-5-10 offerings, both of which did become effective and were used to place investment,
- the Barcelona Land Company offering memorandum, that did not become effective and was not used to made an offering and
- the Company's advisory client Barcelona Realty's offering memorandum that was not offered

This collective body of work has been deemed exemplary of what constitutes an excellent private placement offering memorandum. And, should the Company have determined to go forward with the 8-8 Offering, it would have been of comparable quality.

Harkins feels the compelling summation of the 8-8 Offering matter is that it is a matter that had no effect, either positive, neutral or negative, on anyone.

208 through 214. Mr. Harkins takes great offenses to the Division's statement that "Ms. Bair and Ms. Chamison were both consistent with Mr. Harkins policy to bring PPMs to anyone interested in investing." The Division has no clue, much less information, testimony or any matter of fact, around which to make such a statement. In fact, Mr. Harkins did not deal with Chamison in her investment decision. Bair is the only person Mr. Harkins dealt with regarding an investment offering in the 12-6-12 and 10-5-10 offerings and he met with Carolin at a meeting Mr. Kerrigan didn't make but has called.

There was no general solicitation involved in the Bair or Chamison investments. Interestingly, the Division did not call either person as a witness. This gave them ample freeboard to make up their own version of the relationships between the Company, its executives and these two persons.

Bair was introduced to the Company by Jerry Austin the insurance agent for both Ms. Bair and the Company and a longtime friend of Mr. Harkins. Chamison is a longtime personal acquaintance of Mr. Kerrigan's and had known Mr. Harkins personally for over a year at the time of her investment. Both Bair and Chamison executed subscription agreements attesting to be accredited investors. This is another long over-reach on the Division's part.

The Division is incorrect as to Mr. Harkins knowledge of Burleson's investor qualifications. She is his "significant other". And she is Mr. Kerrigan's client. That ground has been covered herein.

Carolin presented two subscription agreements to the Company and both were fully completed including her attestation that she met accredited investor qualification. In her testimony, she claimed someone other than herself checked the box, in both subscription agreement, that indicated accredited investor qualification. That mystery was not resolved during the ALF Hearing. In its Amended PHB, the Division elected to side with Carolin's testimony.

Mr. Harkins had no "policy" to bring a PPM to anyone interested. It is likely that fewer than 25 offers were made by the Company of it offerings. Mr. Harkins made 1 of them. Wilkerson made one. Mr. Kerrigan made the rest.

215, 216, 217 & 218. Let the record established herein support Mr. Harkins statement that neither he nor the entities violated any Anti-Fraud Provision of the Act.

219 & 220. AVC – refer to par 104.

221 & 222. Mr. Meka – refer to par 105.

223 & 224. Mr. Kerrigan Debts – refer to par 107

225 & 226. Plan B Business Plan – refer to pars 152 & 153.

227 & 228. Failure to pay Mr. Kerrigan – refer to pars 154 & 155.

229 & 230. Promise Use of Funds to pay Mr. Kerrigan – refer to pars 156 & 157.

231 & 232. Delayed 12-6-12 Interest Payments – refer to pars 158 & 159.

233 & 234. Use of 10-5-10 Proceeds to pay 12-6-12 Investors – refer to pars 160, 161 & 162.

235 & 236. Agreement with Chanen – refer to pars 163 &164. Also, the conjecture surrounding an agreement between Barcelona Advisors and Chanen Construction Company is moot. The Division's sole claim that an offering was made of Barcelona Land Company's mid-life draft of a pending and uncompleted offering document focuses solely on Mr. Andrade. Mr. Andrade was the Division's witness and his testimony is clear. He stated that he did not request or receive the draft offering document for his investment consideration purposes.

238. Controlling Person. Mr. Harkins was the Controlling person and no others.

239..245. Mr. Harkins had the sole power to control Barcelona Advisors

246. The Division has brought no testimony to support this claim. The Division should look at its own house in this regard.

247. The Company did not employ securities sales people and it was not a broker, nor, was it required to be as its offerings were exempt from registration. Of the ten securities sales transactions conducted by the Company; 1 was made by Mr. Harkins, 8 by Mr. Kerrigan and 1 by Wilkerson, all executives of the Company.

The Company did not have "securities salesman". The Company did not sale securities to 1000's of persons, or 100's of persons, or dozens of persons. It sold securities to 10 persons, 9 of whom had a substantial prior relationship with one or more of the Company's executives.

The Company did not raise 10's of millions of dollars through its sale of securities, or dozens of millions, or even a million dollars, it raised $895,000 through the sale of securities comprised of $820,000 of securities sold in the 12-6-12 and 10-5-10 offerings

and $75,000 sold through the negotiated sale of three (3) Stand-Alone Transactions that may be classified as securities. Combined, all securities transactions were conducted with ten persons.

Examining the Company's relationship with those ten persons and $890,000 of capital raised through sale of Company securities and 505,000 raised through Stand-Alone Transactions that were not securities, we find:

- Clients of Executive Member Mr. Kerrigan – 8 persons, $750,000 invested in securities offered by the 12-6-12 ($650,000) and 10-5-10 ($100,000), $70,000 in Stand-Alone Transactions that likely are securities transactions and $500,000 in Stand-Alone Transactions that are not securities.
- Business relationship (Bair) of the Company's insurance agent (Austin), introduced to the Company by Austin – 1 person, $20,000 invested in securities.
- Former client (Andrade) of a short-term company officer (Wilkerson) - 1 person, $50,000 invested in the 10-5-10 Offering and $5,000 in a single Stand-Alone Transaction that likely was a securities transaction.

Time to pose a question – Why didn't the Division call Jim Wilkerson as a witness? The only plausible answer is, Wilkerson would have blown the Division's version of the scenario as to .. through whom and how Andrade invested. The Division's version, not even fully supported by Andrade's highly questionable testimony, is Mr. Simmons was the person dealing with Andrade and through who Andrade made his investment.

The Division wants to point the finger and declare FRAUD. They are pointing at the wrong Companies and the wrong people. They need to look inside their own house.

248. The Division has not shown, much less proven, one fraudulent act perpetrated by the Companies or their Executive Members.

249. Mr. Harkins was the sole Controlling Person and the Division has shown no proof of any act of Fraud.

250..252. Moot point. Barcelona Land Company conducted no business activity, made no offers and no sales.

253. Moot point. Whether there was an agreement with Chanen or not has not been litigated and stands as a conflict in testimony. So far, this has only been testified without collaboration. If this Barcelona Land Company matter remains an issue, and we go to a level beyond the Corporation Commission Hearing, and we would then be headed there, Chanen will not stand the test of others' testimony on this matter.

What is unseemly about the Division hanging onto the Barcelona Land Company issue is, "it's a moot point". Their own witness's testimony (Andrade) ended the matter.

By the way. The Division is not the judge in this matter. It is the prosecution. Steve Chanen gave at best forgetful and at worst fraudulent testimony which likely resulted from misleading information given to him by the Division plus possible coaching as to how to answer questions during his testimony. I suspect the former to be the case. The Division does not arrive at this point with one smidgeon of creditability but continues to attack others.

The Division hangs its hat on Barcelona Land Company as a vile player which is one of the entities in the Barcelona group that never engaged in business much less made an offering. The Division is attacking a draft PPM for a proposed offering that never got past a mid-lift draft and was to be made by a company that never conducted business.

If the Division's intent is to discredit Mr. Harkins under the premise he would have caused a company to issue a PPM with information about a company relationship the issuer didn't have (which was Steve Chanen's testimony), I invite the Division to so state that and we will meet in a venue where the cards are dealt a quite differently.

Intentionally Blank

Where things Stand Today - After the trial (ALJ Hearing), the judge (ALJ) decides what legal standards should apply to the defendant's case, based on the civil claims at issue and the evidence presented during the trial (ALJ Hearing).

- Often, this process takes place with input and argument from both the plaintiff and the defendant. (Post Hearing Briefs)
- The judge then instructs the jury (Commission) on those relevant legal principles decided upon, including findings the jury (ALJ) will need to make in order to arrive at certain conclusions.
- The judge (ALJ) also describes key concepts, such as the "preponderance of the evidence" legal standard; defines any specific claims the jury may consider – <u>all based on the evidence presented at trial.</u>

Consider the following scorecard (not much here for the Division):

Claims (assumed applicable to Harkins)	Preponderance of evidence Pass = P Fail = F	Fails on: Relevance = 1 Reasonableness = 2 Reality = 3	Paragraph(s) where addressed herein
Meka's employment	F	1	105
Harkins background (AVC)	F	1, 2	104
Intent to pay Kerrigan	F	3	156
Didn't pay Kerrigan	F	3	154
Used 10-5-10 $ to pay 12-6-12 interest	F	1	160
Changed Business Plan	F	3	152
Kerrigan lawsuit	F	1	109
Kerrigan tax lien	F	1	110
May 2014 Offering	F	3	82
8-8 Offering	F	1	98
Not licensed	F	3	202
Control Person (Harkins only)	P	Win - Division	238
Delayed Interest Payments to Investors	F	1, 3	158
Didn't manage salesperson	F	3	107, 247
Chanen Agreement	F	1,2,3	163
Advertised 8-8	F	1,2,3	Preamble
Good Faith, Lack of Inducement, Fraud	F	3	See below *[1]
June 2015 Offering *2	F	2,3	85
April 2105 Letters to Investors	F	1,2,3	106
Patrick McDonough	F	1,2,3 (4^{th}, truth)	Preamble

*[1] This footnote incorporates Harkins position on pars. 238..254, in three parts, as follows:

238. Harkins was a Controlling Person of Barcelona Advisors and is Liable for its anti-fraud violations - The charge is not supported by any evidence presented at the ALJ Hearing that any fraud was committed by Harkins or the Company.

246..248. Good Faith and Lack Of Inducement – The Division asserts that Harkins and the Company did not maintain and enforce a reasonable and proper system of supervision and internal controls. Harkins, Orr and Simmons testimonies all contradict.

- The Company had no salesmen to supervise.
- Company was comprised, at its highest number of persons, of four highly accomplished professionals, each in their own right capable of managing large diversified staffs. This staff was well organized, equipped, coordinated and supervised, when, where, how and as required.
- The Company had excellent electronic information systems supported by best of class software both commercially acquired and custom developed for the Company's and its advised entities purposes.
- Staff meetings were held every Monday from 9AM to approximately 11:00 AM. Management met frequently.
- Executive Members met in unofficial meeting at least weekly. In all cases Bruce Orr was not in attendance as he traveled to and from Scottsdale to Long Beach. Bob Kerrigan attended most unofficial Executive Member meetings.

- A sweeping statement that is asserted by the Division is ridiculous. That being, Harkins committed fraud because the Company committed fraud. The only way a company can commit anything is through the acts of its people. The above statement is both an oxymoron and incorporates the impossibility of proving a negative. This is excess and a major over-reach of the Division's behavior.
- Harkins has contended through his PHB there were no relative omissions and no misstatements asserted by the Division that have been creditably proven based on the evidence presented at the ALJ Hearing.

249.. 254. Controlling Persons of Barcelona Land Company are liable for its anti-fraud violations – The Division did not prove that Barcelona Land Company made an offer or a sale. Accordingly, the charge is not is supported by any evidence presented at the ALJ Hearing.

In closing on the matter of fraud: Fraud must be proved by showing that the defendant's actions involved five separate elements: (1) a false statement of a material fact,(2) knowledge on the part of the defendant that the statement is untrue, (3) intent on the part of the defendant to deceive the alleged victim, (4) justifiable reliance by the alleged victim on the statement, and (5) injury to the alleged victim as a result. In Arizona, the statute is called the fraudulent scheme and artifice statute. It reads, in pertinent part, that "[a]ny person who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions" is guilty of a felony (Ariz. Rev. Stat. Ann. § 13-2310(A)).

The Divisions has by no shade of anyone's imagination extended its efforts to assess any of its fraud charges up against these five requirements. Likely it knows to do so would have been a failed effort. Rather, the Division tested the waters to see if the ALJ would rollover to its half-hearted claims. Harkins does not see this ALJ doing that.

The Division, rather than exerting the effort to match the specific conditions under which Harkins and the Company operated to some cannons of law and precedent setting court cases that specifically match, have cited their standard fare in hopes it carries the day.

The Hearing Division has no evidence presented at the ALJ Hearing that supports any of the Division's charges under as contained under paragraphs 238..254.

If the facts and the evidence don't fit, you must acquit.

*[2] June Offering – There was offering made in this instance. It was communication with existing investors about the Company's status and need.

Securities Act Rule 169 - Factual Business Communications by Non-Reporting Issuers and Voluntary Filers. Rule 169 is similar to Rule 168 in that it provides a non-exclusive safe harbor from both Section 5(c)'s restriction on pre-filing offers and Section 2(a)(10)'s definition of prospectus. Unlike Rule 168, Rule 169 is available to non-reporting issuers and voluntary filers. It is also more limited than Rule 168 in a number of ways. First, under Rule 169, non-reporting issuers are permitted to continue to release factual business information, but not forward-looking information. Second, Rule 169 is available only for communications intended for customers, suppliers and other non-investors. The SEC has nonetheless made clear that the safe harbor will continue to be

CONCLUSION

A. Conclusions of Law

As based on the evidence in the case, Mr. Mr. Harkins respectfully requests that ALJ Preny recommend that the Commission make the following conclusions of law:

As to Unregistered salesperson or dealer - ARS 44-1841, Mr. Harkins did not violate this statute.

Offer or sale of securities - ARS 44-1842, Mr. Harkins did not violate this statute.

Untrue Statement and Omissions - ARS 44-1991(A)(2), Mr. Harkins did not violate this statute.

Control of Barcelona Land Company - ARS 44-1999, Mr. Harkins did not violate this statute.

Barcelona Land Company - ARS 44-1991, Barcelona Advisors and Barcelona Land Company did not violate this statute.

1. The charges against Mr. Harkins, Barcelona Advisors and Barcelona Land Company should be categorically dismissed without prejudice.
2. The Division should be severally chastised for its abuses and over-reaches.
3. Mr. Harkins should be compensated $5,000,000 for the following:
    - The time the Division has caused him to curtail his business pursuits
    - Defamation of character
    - Pain and suffering which led to a recent heart attack
    - Malicious prosecution
    - Loss of business opportunity

4. Barcelona Advisors should be compensated $3,500,000 of which 2,500,000 will be disbursed to its investors and creditors.
5. Barcelona Land Company requires no award.
6. Order any other relief the Commission deems appropriate or just

RESPECTFULLY SUBMITTED this 19th Day of August, 2016

RICHARD C. MR. HARKINS, pro per
And on behalf of
USA Barcelona Advisors, LLC
USA Barcelona Hotel Land
Company, LLC
4422 E. Lupine Ave.
Phoenix, AZ 85028

Filed this 19th day of August, 2016 with:

Original and thirteen copies of the foregoing filed
This day, August 19, 2016
Arizona Corporation Commission, Docket Control Center
1200 W. Washington St.
Phoenix, AZ 85007

Distribution list on following page

Copy of the foregoing mailed this
This day, August 19, 2016 to:

Charles Berry, Attorney for George T. Mr. Simmons, Respondent
Clark Hill PLC
14850 N. Scottsdale Rd., Suite 500
Scottsdale, AZ 85254

Bruce Orr
3757 Falcon Ave.
Long Beach, CA 90807

One copy each of the foregoing hand delivered
This day, August 19, 2016 to:

Richard C. Harkins as an individual and as agent for:
USA Barcelona Realty Advisors, LLC
USA Barcelona Hotel Land Company I, LLC
All of the immediate above addressees at:
4422 E. Lupine Ave.
Phoenix, AZ 85028

Addendum I - Defined Terms as used in this document

$K means thousand(s) dollars

$MM means million(s) dollars

8-8 Offering and **8-8** means a conceptual offering advertised by Barcelona Advisors under Arizona Revised Statue 14-4-140 wherein no offers or sales were made.

Advisors means USA Barcelona Realty Advisors, LLC and the Company

ALJ means Administrative Law Judge.

Bad Actor(s) is defined within the meaning of Rule 506(d) which identifies certain persons that may potentially become "bad actors." It also lists certain events ("disqualifying events" or "bad acts").

Barcelona Advisors means USA Barcelona Realty Advisors, LLC

Barcelona Entities means Barcelona Advisors, Barcelona Land Company, Barcelona Realty, USA Barcelona Holding Company, USA Barcelona Hotel Holding Company, USA Barcelona Apartment Holding Company and all of their affiliates.

Barcelona Land Company means USA Barcelona Hotel Land Company, LLC

Barcelona Matter means the Division's investigation of select entities within the Barcelona Entity and the Respondents.

Commission means Arizona Corporation Commission

Company means USA Barcelona Realty Advisors and Advisors and Barcelona Advisors

Defined Term is a shorthand reference within a document that refers to another name or idea in the document. The convention as used herein is to define terms when initially employed in double quotes and designate subsequent references with initial capital letters.

Division means the Securities Division of the Arizona Corporation Commission

Goliath and David and Goliath has a secular meaning, denoting an underdog situation, a contest where a smaller, weaker opponent faces a much bigger, stronger adversary. As used herein, the Division being Goliath and the Barcelona Entities, or in the singular, any entity within the Barcelona Entities, such as Barcelona Advisors.

Hearing Division means the Hearing Division of the Arizona Corporation Commission

Investor means one of ten persons who purchased an Investment Unit offered under the Company's 12-6-12 or 10-5-10 Offerings.

Investment Unit means a coupled note and member interest offered under the Company's 12-6-12 or 10-5-10 Offering.

ALJ Hearing means the hearing which began on May 9, 2016 and ended on May 19, 2019.

ALJ Preny means attorney Mark Preny who presided over the ALJ Hearing.

Offering means a securities offering.

Par. and **Pars**. means paragraph and paragraphs as the paragraph identifiers to topical matters in the PHBs of the Division and of Harkins.

Respondents means collectively Harkins, Simmons, Orr and Kerrigan.

Respondent Harkins means in the singular, Richard C. Harkins.

PHB means Post Hearing Brief.

Realty means USA Barcelona Realty, Inc.

Stand-Alone Transaction means a single negotiated financial transaction between two parties wherein the document evidencing the transaction is not a security.

Three "r" Test means evaluating an issue by testing it for relevance, reality and reasonableness.

Addendum II - A chronological summary of the history of USA Realty Advisors, LLC, USA Barcelona Hotel Land Company, LLC and USA Barcelona Realty, Inc. with major activities featured.

July 2012 / September 2012	October 2012 / March 2013	April 2013 / November 2013	December 2013 / March 2014	April 2014 / August 2014	September 2014 / January 2015
The Concept of forming a company to acquire hotels was discussed among 25 people attending a meeting over 2 days. A basic approach to a plan of execution was formulated and a fund raiser committed to a raise of $250,000,000 from pension funds.	In October 2012, based on four factors, Mr. Harkins "restarted" the Barcelona plan. Those factors were: 1. Mr. Weintraub committed to raising $70MM for REIT which was renamed USA Barcelona Realty, Inc. ("Realty")	Advisors opened its formal business office in Scottsdale and assembled a staff of four excellent people. Advisors firmed up its Executive Committee with four professionals, three of whom worked full or part time in the office and one of whom worked independently of the office.	Advisors looked at Realty's business plan and the elements contained therein. Executing any part required capital. Mr. McDonough was hired to develop a new channel of distribution to capital for Realty and its affiliate Barcelona Land Company via broker dealers.	In April 2014, $150,000 comprised of 2 subscriptions to the 10-5-10 was accepted by the Company from investors brought by Mr. Kerrigan and Wilkerson.	In September, with no known prospects for working capital on the immediate horizon, the Executive Members comprised then of Mr. Eaves, Mr. Harkins, Mr. Kerrigan and Mr. Simmons voted on keeping the office open or closing it. The vote came 3-1 to close, with Mr. Kerrigan dissenting.
Barcelona Hotel REIT ("REIT") was formed along with a number of affiliates. Barcelona Administration Company ("BAC") was formed as an advisor to REIT. A staff of hotel experienced people was established and the business plan was pursued.	2. Mr. Kerrigan agreed to loan USA Barcelona Advisors (a rename of Barcelona Administration Company) $30K and to raise an additional $1MM over a several month period for its working capital.	Advisor continued to capitalize the 12-6-12 Offering through Mr. Kerrigan's efforts. Realty's offering memorandum was completed with 1,000 copies professional printed for Mr. Weintraub's use in raising Realty's' $70MM through his RIA network.	In was recommended that Realty pursue a plan to acquire and entitle land suitable for hotel construction. There was an opportunity at hand to do so in concert with the Lewis Companies. Part 2 was to construct hotels through Realty's affiliates on most of that land.	Mr. Kerrigan once again hit the wall on bringing in capital. Wilkerson elected to depart the Company and pursue other interests. Mr. McDonough had produced no progress with any broker dealer and that was deemed a dead-end under his efforts.	From October through January 2015, Mr. Harkins worked from his home office looking for a method to properly capitalize a second restart of the Company or even a new venture. Mr. Harkins continued to communicate with the Company's 10 investors.
Mr. Harkins loaned over $500,000 to the enterprise and others over $200,000. It would take a hundred pages to give the details of the activities during this period. Much was prepared. Over $250MM of acquisitions were under LOIs.	3. Charles Berry agreed to prepare the private offering for Realty's $70MM raise and stage his $100K fee in payments to fit Advisor's budget.	Several hotels were selected for acquisition by Realty from among dozens vetted. Several hotel sites were identified that were suitable for new construction. Financial models were developed for various forms of hotel acquisition, development and land purchase/entitlement.	Advisors required working capital. Mr. Kerrigan was not delivering. Mr. Harkins experimented with a new form of note, the "8-8". Mr. Harkins had previous success under Arizona's 140 Statute and decided to make the 8-8 an AZ 140. It was advertised over approximately 2 months carrying the AZ 140 legend.	Mr. Harkins felt a solution to capitalizing Realty's capital needs for it Land Company affiliate may be found in a JV with a major construction company. Mr. Simmons and Mr. McDonough were charged with the joint effort to locate such a suitable JV partnership.	In 2015-Q1. the Securities Division put the executive Members on notice that it was underway with an investigation of them and the Company.
The City of New York Police and Fireman pension fund balked on its $75MM statement of interest, beginning a cascade of other pension fund "balks" and our fund raiser bailed out (with $135,000 of our retainers). The effort was tabled in September 2011 and the Barcelona office was closed.	4. An group of Hilton and Marriott hotels could be acquired under terms acceptable to Mr. Harkins as appeared to be the case with apartments owned by Lincoln Properties and others.	Advisors held a business retreat in Sedona attended by all of its people and over 15 others outside of Advisors who would play important roles in the execution of Realty and Advisors individual business plans.	By the end of February 2014, no offers or sale had been made of the 8-8. It was shelved. In what seemed timely, Mr. Kerrigan felt he could complete his commitment to raise the balance of $1MM. Advisors looked to him to do so.	From several major construction companies deemed interested, Chanen Construction seemed the best fit and they were clearly interested; a framework agreement was reached with Chanen to build hotels for Realty's affiliates.	August 16, 2016. Here we are! And yes, Mr. Harkins intends, when this matter is resolved, to continue in business.
Mr. Harkins incubated any active pursuit of the Barcelona plan from October 2011 until October 1, 2012. But, by the end of July 2012, Mr. Harkins felt the prospects for a restart were falling into place.	With these 4 factors deemed 'in place', Advisors set about doing the work to put Realty back on line.	November, Advisors informed Realty that Mr. Weintraub was not going to deliver. Advisors closed its 12-6-12 Offering at $520,000 and filed Form D with the SEC.	Advisors elected to make the terms of new offering different from its previous 12-6-12. Less interest, no set 'bonus interest payment dates' and no associated Units. The new offering was in the amount of $500,000.	The Barcelona Land Company PPM went through development eventually reaching the point where a Chanen disclosure was included.	

Addendum III

Related Matter	Why? 1 = Drafted PPM 2 = Other 3 = Admission 4 = NA to Harkins 5 = Div' allegation	Against Harkins Y = yes N = no ? = not sure	Division's PHB Par #	Basis for Allegation? Y= yes N = no M = maybe T = conflicting testimony Mt = moot Y/ A = Allowed	Par # in Harkins PHB
Meka	1, 2	Y	147..149	N	
Kerrigan IRS Lien	1	?	223..224	N	
Kerrigan Judgement	1	?	223..224	N	
Harkins – AVC	1, 2	Y	145..146 / 219..220	N	
Intent to Pay Kerrigan	1	Y	156..157 / 229..230	N	
Didn't pay Kerrigan	1	Y	154..155 / 227..228	N	
Deferred Payment to Investors	1	Y	231..232	N	
Changed Business Plan	1	Y	152..153 / 225..226	N	
8-8 Offering / Advertisement & Solicitation	1, 2	Y	205..214	N	
12-6-12 Offering					
10-5-10 Offering					
Land Company Offering	1	Y	201 / 215..218 / 249..254	N	
Control Person	3	Y	238..245	y	
10-5-10 $ to pay 12-6-12 interest	1	Y	160..162	N	
Chanen Agreement	1	Y	163..164 / 235..237	T / Mt	
Low Risk Investment	4	n	165	T	
Accredited Investor Quals	5	y	213..214		
Bad Judgement	5	y	246..248	N	
Offers & Sales					
Harkins	5	y	193..194	Y / A	
Barcelona Advisors	5	n	200	Y/ A	
Barcelona Land Company	5	n	201	Y / A	
Licensing	5	y	202..204	Y / A	